

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

In the Matter of)
)
William Bruce Day,) Proceeding No. D2011-32
)
Respondent)

FINAL ORDER

The Director of the Office of Enrollment and Discipline (“OED Director”) for the United States Patent and Trademark Office (“USPTO” or “Office”) and William Bruce Day (“Respondent”) have submitted a Proposed Settlement Agreement to the Under Secretary of Commerce for Intellectual Property and USPTO Director for approval.

The Proposed Settlement Agreement, which resolves all disciplinary action by the USPTO arising from the stipulated facts set forth below, is hereby approved. This Final Order sets forth the parties’ stipulated facts, legal conclusions, and sanctions to which the OED Director and Respondent have agreed in order to resolve voluntarily the disciplinary complaint against Respondent.

Jurisdiction

1. At all times relevant hereto, Respondent of Kansas City, Missouri, has been a patent attorney registered to practice before the USPTO and subject to the USPTO Disciplinary Rules set forth at 37 C.F.R. § 10.20 *et seq.*
2. The USPTO Director has jurisdiction over this matter and the authority to approve the proposed settlement agreement pursuant to the provisions of 35 U.S.C. §§ 2(b)(2)(D) and 32, and 37 C.F.R. §§ 11.20 and 11.26.

Stipulated Facts

3. Respondent of Kansas City, Missouri, is an attorney registered to practice patent law before the Office (Registration Number 29,059) and is subject to the USPTO Disciplinary Rules set forth at 37 C.F.R. § 10.20 *et seq.*
4. At all relevant times, Respondent represented several clients before the Office in patent matters.
5. In connection with at least four patent applications pending in the Office for which Respondent was the attorney of record, Respondent did not adequately keep his clients informed as to the status of the legal matters they entrusted to him, including not informing the clients about correspondence received from the Office when the correspondence (i) could have a

significant effect on a matter pending before the Office, (ii) is received by the practitioner on behalf of a client, and (iii) is correspondence of which a reasonable practitioner would believe under the circumstances the client should be notified.

6. Moreover, Respondent allowed four patent applications to become abandoned without the respective clients' consent and, thereafter, did not take action to revive those applications.

Legal Conclusion

7. Based on the information contained above in paragraphs 3 through 6, Respondent acknowledges that his conduct violated:

- a. 37 C.F.R. § 10.23(b)(6) via 37 C.F.R. § 10.23(c)(8) for engaging in conduct that adversely reflects on the practitioner's fitness to practice before the Office by not informing four clients about correspondence Respondent received from the Office when the correspondence (i) had a significant effect on a matter pending before the Office, (ii) was received by Respondent on behalf clients, and (iii) was correspondence of which a reasonable practitioner would believe under the circumstances the client should be notified; and
- b. 37 C.F.R. § 10.77(c) for neglecting legal matters entrusted to him by not adequately communicating with four clients about their patent applications, by allowing four patent applications to become abandoned without the consent of the respective clients, and by failing to take action to revive the abandoned applications.

Sanction

8. Respondent agreed, and it is ORDERED that:

- a. Respondent be, and hereby is, suspended from the practice of patent, trademark, and other non-patent law before the Office for a period of twenty-four (24) months commencing on the date the Final Order is signed;
- b. Respondent be, and hereby is, granted limited recognition for a period of thirty (30) days commencing on the date the Final Order is signed for the sole purpose of complying with the provisions of 37 C.F.R. § 11.58(c) pertaining to concluding client work;
- c. Thirty-one (31) days after the date of the Final Order, the USPTO shall dissociate Respondent's name from all USPTO Customer Numbers and Public Key Infrastructure ("PKI") certificates;
- d. Respondent may not apply for, or obtain a USPTO Customer Number unless and until he is reinstated to practice before the USPTO;

- e. In the event Respondent successfully petitions for reinstatement in accordance with the provisions of 37 C.F.R. § 11.60, Respondent shall be placed on a twenty-four (24) month probationary period commencing on the date Respondent is reinstated to practice before the Office;
- f. (1) If, at any time, the OED Director is of the opinion that Respondent, during Respondent's probationary period, 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) issue to Respondent an Order to Show Cause why the USPTO Director should not enter an order immediately suspending Respondent for up to an additional twenty-four (24) months for the violations set forth in paragraph 7, above;

- (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 Respondent's probationary period, 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: (i) the Order to Show Cause, (ii) Respondent's response to the Order to Show Cause, if any, and (iii) argument and evidence causing the OED Director to be of the opinion that Respondent, during Respondent's probationary period, failed to comply with any provision of the Final Order or any Disciplinary Rule of the USPTO Code of Professional Responsibility, and

- (B) request that the USPTO Director enter an order immediately suspending Respondent for up to an additional twenty-four (24) months for the violations set forth above in paragraph 7;

- g. If Respondent is suspended pursuant to the provisions of the preceding subparagraph:

- (1) the USPTO shall promptly dissociate Respondent's name from all USPTO Customer Numbers and PKI certificates; and

(2) Respondent may not apply for or obtain a USPTO Customer Number unless and until he is reinstated to practice before the USPTO;

- h. In the event that the USPTO Director enters an order pursuant to the Final Order immediately suspending Respondent for up to an additional twenty-four (24) months, 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 USPTO Director's order;
- i. The OED Director shall publish the Final Order at the Office of Enrollment and Discipline's Reading Room electronically located at: <http://des.uspto.gov/Foia/OEDReadingRoom.jsp>;
- j. The OED Director shall publish a notice in the *Official Gazette* materially consistent with the following notice:

Notice of Suspension

William Bruce Day of Kansas City, Missouri, an attorney registered to practice before the Office (Registration No. 29,059). The United States Patent and Trademark Office ("USPTO" or "Office") has suspended Mr. Day for a period of two years for violating 37 C.F.R. § 10.23(b)(6) via 37 C.F.R. § 10.23(c)(8) for engaging in conduct that adversely reflects on a practitioner's fitness to practice before the Office by not informing four clients about correspondence Respondent received from the Office when the correspondence (i) had a significant effect on a matter pending before the Office, (ii) was received by Respondent on behalf of clients, and (iii) was correspondence of which a reasonable practitioner would believe under the circumstances the client should be notified, and for violating 37 C.F.R. § 10.77(c) for neglecting legal matters entrusted to him by not adequately communicating with four clients about their patent applications, by allowing four patent applications to become abandoned without the consent of the respective clients, and by failing to take action to revive the four abandoned applications. Upon being reinstated, Mr. Day will be placed on probation for twenty-four (24) months. Mr. Day will be eligible to practice patent, trademark, and other non-patent law before the Office while on probation unless suspended during his probationary period and provided he otherwise satisfies 37 C.F.R. § 11.14(a).

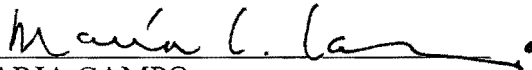
This action is taken pursuant to a settlement agreement between Mr. Day and the USPTO pursuant to the provisions of 35 U.S.C. §§ 2(b)(2)(D) and 32, and 37 C.F.R. §§ 11.20, 11.26,

and 11.59. Disciplinary decisions regarding practitioners are posted electronically in the Office of Enrollment and Discipline's Reading Room located at:
<http://des.uspto.gov/Foia/OEDReadingRoom.jsp>.

- k. Pursuant to 37 C.F.R. § 11.59, the OED Director shall 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;
- l. 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 f., above;
- m. Nothing in the Proposed Settlement Agreement or this Final Order shall prevent the Office from considering the record of this disciplinary proceeding, including the Final Order, (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 (i) as an aggravating factor to be taken into consideration in determining any discipline to be imposed and/or (ii) to rebut any statement or representation by or on Respondent's behalf; and
- n. The OED Director and Respondent bear their own costs incurred to date and in carrying out the terms of this agreement.

AUG 10 2011

Date



MARIA CAMPO

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

William Bruce Day
409 E. Santa Fe Trail
Kansas City, Missouri 64145-1060

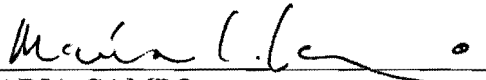
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This action is taken pursuant to a settlement agreement between Mr. Day and the USPTO pursuant to the provisions of 35 U.S.C. §§ 2(b)(2)(D) and 32, and 37 C.F.R. §§ 11.20, 11.26, and 11.59. Disciplinary decisions regarding practitioners are posted electronically in the Office of Enrollment and Discipline's Reading Room located at:
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MARIA CAMPO
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