

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

In the Matter of:

Ben E. Lofstedt,

Respondent

)
)
)
)
)
)
)

Proceeding No. D2011-42

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

Pursuant to 37 C.F.R. § 11.24(d), the suspension for two years of Ben E. Lofstedt. (Respondent) from the practice of patent, trademark and other non-patent law before the United States Patent and Trademark Office (USPTO or Office) is hereby ordered for violation of the ethical standard set out in 37 C.F.R. § 10.23(b)(6) via 37 C.F.R. § 10.23(c)(5)(i).

Background

On January 28, 2011, in *In re Ben Edward Lofstedt on Discipline*, Case Number S188293, the Supreme Court of California suspended Respondent for two years from the practice of law.

On December 9, 2011, a "Notice and Order Under 37 C.F.R. § 11.24" (Notice and Order) mailed by certified mail (receipt no. 70111150000146351307), informed Respondent that the Deputy General Counsel for Enrollment and Discipline and Director of the Office of Enrollment and Discipline (OED DGC) had filed a "Complaint for Reciprocal Discipline Under 37 C.F.R. § 11.24" (Complaint) requesting that the Director of the United States Patent and Trademark Office (USPTO or Office) impose reciprocal discipline upon Respondent identical to the discipline imposed by the Supreme Court of California. The

Notice and Order was delivered to Respondent on December 19, 2011.

The Notice and Order provided Respondent an opportunity to file, within forty days, a response opposing, based on one or more of the reasons provided in 37 C.F.R. § 11.24(d)(1), the imposition of reciprocal discipline identical to that imposed by the Supreme Court of California. Respondent has not filed a response to the Notice and Order.

Analysis

In light of Respondent's failure to file a response, it is hereby determined that: (1) there is no genuine issue of material fact under 37 C.F.R. § 11.24(d) and (2) suspension of Respondent is appropriate.

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

- A. Respondent is (a) suspended from the practice of patent, trademark and other non-patent law before the USPTO for two years starting on the date the Final Order is entered and (b) Respondent is placed on probation for two years starting on the date the Final Order is entered;
- B. Respondent is permitted to seek reinstatement pursuant to 37 C.F.R. § 11.60 after serving thirty (30) days of his two-year suspension;
- C. If Respondent is reinstated pursuant to 37 C.F.R. § 11.60, Respondent shall be permitted to practice patent law before the USPTO during his probationary period unless the stay of the suspension is lifted by order of the USPTO Director;
- D. If Respondent is reinstated pursuant to 37 C.F.R. § 11.60, Respondent shall be permitted to practice trademark and other non-patent law before the USPTO during his two-year probationary period provided that Respondent otherwise satisfies the conditions of 37 C.F.R. § 11.14(a) and unless the stay of the

suspension is lifted by order of the USPTO Director;

E. (1) in the event that the OED Director is of the opinion that Respondent, during the two-year 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 may:

(a) issue to Respondent an Order to Show Cause why the USPTO Director should not immediately suspend Respondent for up to an additional twenty-three (23) months for the alleged violations;

(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 that, after the fifteen (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 two-year 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 may:

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

period, and

(b) request the USPTO Director immediately suspend Respondent for up to an additional twenty-three (23) months for the violations set forth in the Order to Show Cause;

- F. That nothing herein shall require the OED Director to take action(s) described in the preceding paragraph if Respondent has not yet been reinstated to practice before the Office; instead, the OED Director may consider Respondent's purported failure to comply with any provision of the Final Order or any Disciplinary Rule of the USPTO Code of Professional Responsibility in connection with any request for reinstatement made by Respondent;
- G. The OED Director publish the following Notice in the *Official Gazette*:

NOTICE OF SUSPENSION

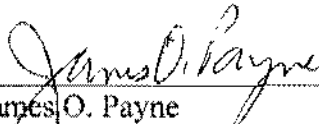
This concerns Ben E. Lofstedt of Fullerton, California, a registered patent attorney (Registration Number 25,998) admitted to practice law in the State of California. In a reciprocal disciplinary proceeding, Mr. Lofstedt has been suspended for two years from the practice of patent, trademark, and other non-patent law before the United States Patent and Trademark Office ("USPTO") for violating 37 C.F.R. § 10.23(b)(6) via 37 C.F. R. § 10.23(c)(5)(i) when he was suspended on ethical grounds from the practice of law in the State of California and has been placed on a two year probation. After completing thirty days of his suspension, Mr. Lofstedt may seek reinstatement pursuant to 37 C.F.R. § 11.60. After being reinstated, Mr. Lofstedt will be permitted to practice patent law before the USPTO during his probationary period, and trademark and non-patent law provided he satisfies 37 C.F.R. §§ 11.14(a), unless a stay of the suspension is lifted by order of the USPTO Director.

The Supreme Court of California suspended Mr. Lofstedt in connection with two client matters. In the first matter, he failed to file an Offer of Compromise with the Internal Revenue Service on behalf of his clients, failed to perform legal services competently, and failed to adequately communicate with his clients. In the second matter, Mr. Lofstedt failed to provide an accounting to a receiver as ordered by the court in the client's marital dissolution and delayed approximately sixteen months before providing an accounting to counsel for the client's ex-husband.

This action is taken pursuant to the provisions of 35 U.S.C. §§ 2(b)(2)(D) and 32, and 37 C.F.R. §§ 11.24 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>.

- H. Direct the OED Director to give notice pursuant to 37 C.F.R. § 11.59 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; and
- I. Direct such other and further relief as the nature of this cause shall require.

FEB 16 2012
Date


James O. Payne
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


NOTICE OF SUSPENSION

This concerns Ben E. Lofstedt of Fullerton, California, a registered patent attorney (Registration Number 25,998) admitted to practice law in the State of California. In a reciprocal disciplinary proceeding, Mr. Lofstedt has been suspended for two years from the practice of patent, trademark, and other non-patent law before the United States Patent and Trademark Office ("USPTO") for violating 37 C.F.R. § 10.23(b)(6) via 37 C.F. R. § 10.23(c)(5)(i) when he was suspended on ethical grounds from the practice of law in the State of California and has been placed on a two year probation. After completing thirty days of his suspension, Mr. Lofstedt may seek reinstatement pursuant to 37 C.F.R. § 11.60. After being reinstated, Mr. Lofstedt will be permitted to practice patent law before the USPTO during his probationary period, and trademark and non-patent law provided he satisfies 37 C.F.R. §§ 11.14(a), unless a stay of the suspension is lifted by order of the USPTO Director.

The Supreme Court of California suspended Mr. Lofstedt in connection with two client matters. In the first matter, he failed to file an Offer of Compromise with the Internal Revenue Service on behalf of his clients, failed to perform legal services competently, and failed to adequately communicate with his clients. In the second matter, Mr. Lofstedt failed to provide an accounting to a receiver as ordered by the court in the client's marital dissolution and delayed approximately sixteen months before providing an accounting to counsel for the client's ex-husband.

This action is taken pursuant to the provisions of 35 U.S.C. §§ 2(b)(2)(D) and 32, and 37 C.F.R. §§ 11.24 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>.

FEB 16 2013
Date



JAMES O. PAYNE
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