



the Order in *Attorney Grievance Commission of Maryland v. David E. Fox* (Case AG No. 6) (Dec. 20, 2010). On September 7, 2011, the United States Postal Service (USPS) left a notice of attempted delivery of a package at Respondent's address. There is no indication that Respondent retrieved the package from USPS and the package was ultimately returned to the USPTO on November 4, 2011.

Due to the inability to serve Respondent at his last known address, Respondent was served by publication, pursuant to 37 C.F.R. § 11.35(b), in the *Official Gazette* on November 22, 2011 and November 29, 2011. The service in the *Official Gazette* informed Respondent that the OED Director had initiated, on June 20, 2011, a proceeding to impose reciprocal discipline, based on the Order in *Attorney Grievance Commission of Maryland v. David E. Fox* (Case AG No. 6) (Dec. 20, 2010). The notice in the *Official Gazette* also informed Respondent that, on September 6, 2011, a Notice and Order had been issued and mailed to his last known address. The notice in the *Official Gazette* further provided directions on how Respondent could request a copy of the Notice and Order and the supporting documents that had been sent to him at his last known address. It has been more than forty days since the second notice was published in the *Official Gazette* (Nov. 29, 2011), yet Respondent has not requested a copy of the Notice and Order and the supporting documents or 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) the exclusion of Respondent from practice before the USPTO is appropriate.

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

- A. Respondent is excluded from the practice of trademark and other non-patent law before the USPTO effective the date of this Final Order;
- B. The OED Director is directed to publish the following Notice in the Official Gazette:

NOTICE OF EXCLUSION

This concerns David E. Fox of Washington, D.C., an attorney licensed by the state of Maryland and the District of Columbia who is not a registered practitioner and who is not authorized to practice patent law before the United States Patent and Trademark Office ("USPTO"). In a reciprocal disciplinary proceeding, the USPTO Director has ordered that Mr. Fox be excluded from the practice of trademark and non-patent law before the USPTO for violating 37 C.F.R. § 10.23(b)(6) via 37 C.F.R. § 10.23(c)(5)(i) by being disbarred on ethical grounds from the practice of law in the State of Maryland.

The Court of Appeals of Maryland issued an order, dated December 20, 2010, disbaring Mr. Fox for neglecting a client matter, making a misrepresentation to a client, settling a matter without consulting with the client, and failing to cooperate with the office of Bar Counsel. The Court of Appeals of Maryland disbarred Mr. Fox after he was found to have violated Maryland Lawyer's Rules of Professional Conduct 1.1, 1.2(a), 1.3, 1.4(a) and (b), 1.16(d), 8.1(b) and 8.4(a) and (c).

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>.

- C. The OED Director is directed 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 or formerly was admitted to practice, to courts where Respondent is known to be admitted, and to the public;
- D. Respondent is directed to comply with his duties under 37 C.F.R. § 11.58 as an excluded practitioner and, upon filing a petition for reinstatement under

37 C.F.R. § 11.60, submit proof of compliance with 37 C.F.R. §§

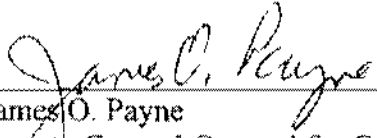
11.58(b)(3), (b)(5), and (b)(6) with the OED Director; and

E. Direct such other and further relief as the nature of this cause shall require.

Respectfully Submitted,

FEB 14 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

**CERTIFICATE OF SERVICE**

I certify that the foregoing Final Order Under 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:

David E. Fox  
1325 18<sup>th</sup> Street, N.W., Suite 103  
Washington, D.C. 20036

FEB 14 2012

Date



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

NOTICE OF EXCLUSION

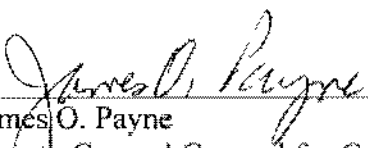
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Date

  
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