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

In the Matter of: Hugh P. Gortler,

Respondent

Proceeding No. D2013-06

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

Pursuant to 37 C.F.R. § 11.24, the reprimand of Hugh P. Gortler (Respondent) is hereby ordered for violation of 37 C.F.R. § $11.804(h)^1$.

Background

On October 29, 2012, the State Bar of California issued a Decision in In the Matter

of Hugh P. Gortler (Case No. 11-C-12562-DFM) publicly reproving Respondent.

On February 27, 2013, a "Notice and Order Pursuant to 37 C.F.R. § 11.24" (Notice and Order) mailed by certified mail (receipt no. 70113500000314479654) notified Respondent that the Deputy General Counsel for Enrollment and Discipline and 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 Acting Director of the United States Patent and Trademark Office (USPTO or Office) impose reciprocal discipline upon Respondent identical to the discipline imposed by the State Bar

¹ The Agency initiated disciplinary proceedings against Respondent for violating 37 C.F.R. § 10.23(b)(6) when he was disciplined by a duly constituted authority of a State (here, California). Though new disciplinary rules became effective May 3, 2013, reciprocal discipline against Respondent is unaffected. A disciplinary proceeding initiated prior to the new rules may be continued under the new rules if the conduct at issue would continue to justify disciplinary purposes under the new rules. *See* 37 C.F.R. § 11.901(a). Respondent's misconduct survives for disciplinary purposes under the new rules because, under 37 C.F.R. § 11.804(h) of the new rules, it is professional misconduct for a practitioner to be publicly disciplined on ethical or professional misconduct grounds by any duly constituted authority of a State.

Court of California in *In the Matter of Hugh P. Gortler* (Case No. 11-C-12562-DFM). The Notice and Order was delivered to Respondent on March 2, 2013.

The Notice and Order provided Respondent an opportunity to file, within forty (40) 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 State Bar Court of California. More than forty days have passed, yet Respondent has not filed a response to the Notice and Order.

<u>Analysis</u>

In light of Respondent's failure to file a response, it is hereby determined that there

is no genuine issue of material fact under 37 C.F.R. § 11.24(d) and reprimand of

Respondent is the appropriate discipline.

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

1. Respondent be, and hereby is, reprimanded;

2. The OED Director publish the following Notice in the Official Gazette:

NOTICE OF REPRIMAND

This Notice concerns Hugh P. Gortler of Mission Viejo, California, who is a registered patent attorney (Registration No. 33,890). In a reciprocal disciplinary proceeding, the Acting Director of the United States Patent and Trademark Office has ordered that Mr. Gortler be reprimanded for violating 37 C.F.R. § 11.804(h), predicated upon being publicly reproved on ethical grounds by a duly constituted authority of a State.

Mr. Gortler was publicly reproved by the State Bar Court of California in connection with his guilty plea, and conviction of, a misdemeanor violation of California Penal Code section 243, subdivision (e)(1) (spousal battery).

This action is taken pursuant to the provisions of 35 U.S.C. § 2(b)(2)(D) and 37 C.F.R.§ 11.24. Disciplinary decisions involving practitioners are posted for public reading at the Office of Enrollment and Discipline's Reading Room available at: http://e-foia.uspto.gov/Foia/OEDReadingRoom.jsp.

- 3. The OED Director is directed to comply with 37 C.F.R. § 11.59;
- 4. The OED Director shall direct such other and further relief as the nature of this cause shall require.

MAY - 8 2013

Date

and a James O. Payne

Deputy General Counsel for General Law United States Patent and Trademark Office

on behalf of

Teresa Stanek Rea Acting Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office