

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

In the Matter of:	)	
	)	
Leonard Tachner,	)	Proceeding No. D2014-22
	)	
Respondent	)	
_____	)	

**FINAL ORDER**

Pursuant to 37 C.F.R. § 11.27(b), the Director of the United States Patent and Trademark Office (“USPTO” or “Office”) received for review and approval from the Director of the Office of Enrollment and Discipline (“OED Director”) an Affidavit of Resignation Pursuant to 37 C.F.R. § 11.27 executed by Leonard Tachner (“Respondent”) on June 2, 2014. 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 shall be approved and Respondent shall be excluded on consent from practice before the Office in patent, trademark, and other non-patent matters commencing on the date of this Final Order.

**Jurisdiction**

Respondent of San Jose, California, is a registered patent attorney (Reg. No. 26,344) and is subject to the USPTO Rules of Professional Conduct, 37 C.F.R. § 11.101, *et seq.*

*See* 37 C.F.R. § 11.19(a).<sup>1</sup>

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

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<sup>1</sup> The USPTO Code of Professional Responsibility applies to practitioner misconduct that occurred prior to May 3, 2013, while the USPTO Rules of Professional Conduct, 37 C.F.R. § 11.101 *et seq.*, apply to a practitioner misconduct that occurred after May 2, 2013.

on consent from practice before the Office in patent, trademark, and other non-patent matters before the Office.

### **Respondent's Affidavit of Resignation**

Respondent acknowledges in his June 2, 2014 Affidavit of Resignation that:

1. His consent is freely and voluntarily rendered, and he is not being subjected to coercion or duress.
2. He is aware that the OED Director opened an investigation of allegations that that he violated the USPTO Rules of Professional Conduct, namely: OED File No. G2239. The investigation concerned allegations, *inter alia*, that:
  - a. By Final Order dated April 12, 2013, Respondent was suspended for five years from the practice of patent, trademark and other non-patent matters before the USPTO for neglecting patent matters by allowing patents to expire for not timely paying maintenance fees, for failing to inform clients of important USPTO correspondence and giving misleading information to clients about the status of their patents. He also failed to conduct an inquiry reasonable under the circumstances prior to signing and filing certain submissions with the USPTO;
  - b. By Final Order dated April 12, 2013, Respondent was granted limited recognition to practice before the USPTO commencing on the date the Final Order and expiring thirty (30) days after the date the Final Order is signed, with such limited recognition being granted for the sole purpose of facilitating Respondent's compliance with the provisions of 37 C.F.R. § 11.58(b).
  - c. Respondent engaged in the unauthorized practice of law in the prosecution of U.S. Trademark application nos. 85/906,074 and 85/906,085 by representing clients before the USPTO while he was not authorized to do so; and
  - d. Respondent did not inform his clients or the trademark examiner in U.S. Trademark application nos. 85/906,074 and 85/906,085 that he was not authorized to represent the clients before the USPTO.
3. He is aware that the disciplinary complaint pending against him alleges that he violated the following provisions of the USPTO Rules of Professional Conduct:
  - a. 37 C.F.R. § 11.804(a) (proscribing engaging in conduct that is a violation of the USPTO Rules of Professional Conduct);

- b. 37 C.F.R. § 11.804(c) (proscribing engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation);
- c. 37 C.F.R. § 11.804(d) (proscribing engaging in conduct that is prejudicial to the administration of justice); and
- d. 37 C.F.R. § 11.505 (proscribing the unauthorized practice of law).

4. Without admitting to any of the allegations at issue in the pending disciplinary investigation or to violating any of the USPTO Rules of Professional Conduct, Respondent acknowledges that, if and when he applies for reinstatement under 37 C.F.R. § 11.60, the OED Director will conclusively presume, for the purpose of determining the application for reinstatement, that (a) the allegations set forth in OED File No. G2239 and USPTO disciplinary proceeding D2014-22 are true and (b) he could not have successfully defended himself against such allegations.

5. Respondent has fully read and understands 37 C.F.R. §§ 11.5(b), 11.27, 11.58, 11.59, and 11.60, and is fully aware of the legal and factual consequences 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:

- a. Respondent's Affidavit of Resignation shall be, and hereby is, approved;
- b. Respondent shall be, and hereby is, excluded on consent from practice before

the Office in patent, trademark, and other non-patent matters commencing on the date of this Final Order;

c. The OED Director shall electronically publish this Final Order at the Office of Enrollment and Discipline's electronic FOIA Reading Room, which is publicly accessible at <http://e-foia.uspto.gov/Foia/OEDReadingRoom.jsp>;

d. The OED Director shall publish the following notice in the *Official*

*Gazette*:

**Notice of Exclusion on Consent**

This notice concerns Leonard Tachner of San Jose California, a registered patent attorney (Reg. No. 26,344). The Director of the United States Patent and Trademark Office ("USPTO" or "Office") has accepted Mr. Tachner's affidavit of resignation and ordered his exclusion on consent from practice before the Office in patent, trademark, and other non-patent matters.

Mr. Tachner voluntarily submitted his affidavit at a time when a disciplinary investigation was pending against him. The investigation concerned allegations, *inter alia*, that:

- a) By Final Order dated April 12, 2013, Respondent was suspended for five years from the practice of patent, trademark and other non-patent matters before the USPTO for neglecting patent matters by allowing patents to expire for not timely paying maintenance fees, for failing to inform clients of important USPTO correspondence and giving misleading information to clients about the status of their patents. He also failed to conduct an inquiry reasonable under the circumstances prior to signing and filing certain submissions with the USPTO;
- b) By Final Order dated April 12, 2013, Respondent was granted limited recognition to practice before the USPTO commencing on the date the Final Order and expiring thirty (30) days after the date the Final Order is signed, with such limited recognition being granted for the sole purpose of facilitating Respondent's compliance with the provisions of 37 C.F.R. § 11.58(b).
- c) Respondent engaged in the unauthorized practice of law in the prosecution of U.S. Trademark application nos. 85/906,074 and 85/906,085 by representing clients before the USPTO while he was not authorized to do so; and
- d) Respondent did not inform his clients or the trademark examiner in U.S. Trademark application nos. 85/906,074 and 85/906,085 that he was not authorized to represent the clients before the USPTO.

The disciplinary investigation concerned allegations that Respondent violated the following provisions of the USPTO Rules of Professional Conduct:

- a. 37 C.F.R. § 11.804(a) (proscribing engaging in conduct that is a violation of the USPTO Rules of Professional Conduct);
- b. 37 C.F.R. § 11.804(c) (proscribing engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation);
- c. 37 C.F.R. § 11.804(d) (proscribing engaging in conduct that is prejudicial to the administration of justice); and
- d. 37 C.F.R. § 11.505 (proscribing the unauthorized practice of law).

While Mr. Tachner did not admit to any of the allegations at issue in the pending disciplinary investigation or to violating any of the Disciplinary Rules of the USPTO Code of Professional Conduct, he acknowledged that, if and when he applies for reinstatement, the OED Director will conclusively presume, for the purpose of determining the application for reinstatement, that (i) the allegations set forth in OED File No. G2239 and USPTO disciplinary proceeding D2014-22 are true, and (ii) he 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, available at:  
<http://e-foia.uspto.gov/Foia/OEDReadingRoom.jsp>.

- e. Respondent shall comply with 37 C.F.R. § 11.58;
- f. The OED Director shall comply with 37 C.F.R. § 11.59;
- g. Respondent shall comply with 37 C.F.R. § 11.60 upon any request for

reinstatement;

- h. The OED Director and Respondent shall bear their own costs incurred to date;

and

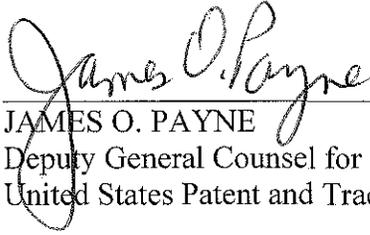
in carrying out the terms of this agreement

- i. USPTO Disciplinary Proceeding No. D2014-22 is hereby dismissed.

(only signature page follows)

JUN 30 2014

Date



JAMES O. PAYNE  
Deputy General Counsel for General Law  
United States Patent and Trademark Office

on behalf of

Michelle K. Lee  
Deputy Under Secretary of Commerce for Intellectual  
Property and Deputy Director of the United States Patent and  
Trademark Office

cc:

Director of the Office of Enrollment and Discipline  
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