

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

In the Matter of:)
)
Andrew O. Martyniuk,)
)
Respondent)
_____)

Proceeding No. D2018-05

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

Pursuant to 37 C.F.R. § 11.24(b), Andrew O. Martyniuk (“Respondent”) is hereby suspended for a minimum of two (2) years, from the practice of patent, trademark, and other non-patent law before the United States Patent and Trademark Office (“USPTO” or “Office”) for violation of 37 C.F.R. § 11.804(h).

Background

By Order dated June 20, 2017, the Supreme Court of Ohio pursuant to *Disciplinary Counsel v. Martyniuk*, Slip Opinion No. 2017-Ohio-4329, indefinitely suspended Respondent from the practice of law in that jurisdiction based on ethical grounds.

On April 19, 2018, a “Notice and Order Pursuant to 37 C.F.R. § 11.24” (“Notice and Order”), was sent by certified mail (receipt no.7017145000024084748) notifying Respondent that the 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 Director of the USPTO impose reciprocal discipline upon Respondent identical to the discipline imposed by the Supreme Court of Ohio pursuant to *Disciplinary Counsel v. Martyniuk*, Slip Opinion No. 2017-Ohio-4329. The Notice and Order was delivered to Respondent on April 23, 2018, who filed a timely letter dated May 23, 2018.

Analysis

In his response, Respondent indicates that he “does not contest reciprocal discipline to

that which has already been imposed by the Ohio Supreme Court likewise being imposed by the United States Patent & Trademark Office.” (Ex. 1). Given that Respondent believes that it is appropriate for the USPTO to impose reciprocal discipline on the same terms and conditions as those set forth in the June 20, 2017 Order of the Supreme Court of Ohio pursuant to *Disciplinary Counsel v. Martyniuk*, Slip Opinion No. 2017-Ohio-4329, it is hereby determined that there is no genuine issue of material fact under 37 C.F.R. § 11.24(d), and that it is the appropriate discipline to suspend Respondent from the practice of patent, trademark, and other non-patent law before the USPTO for a minimum of two (2) years.

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

1. Respondent be suspended from the practice of patent, trademark, and other non-patent law before the USPTO for a minimum of two (2) years, effective the date of this Final Order;
2. The OED Director publish a notice in the *Official Gazette* that is materially consistent with the following:

Notice of Suspension

This notice concerns Andrew O. Martyniuk of Kent, Ohio, who is a registered patent attorney (Registration Number 41,972). In a reciprocal disciplinary proceeding, the Director of the United States Patent and Trademark Office (“USPTO”) has ordered that Mr. Martyniuk (“Respondent”) be suspended from practice before the USPTO in patent, trademark, and other non-patent matters for a minimum of two (2) years for violating 37 C.F.R. § 11.804(h), predicated upon being indefinitely suspended from the practice of law by a duly constituted authority of a State. No petition for reinstatement to practice before the USPTO in the aforementioned matters may be filed within two years of the Final Order. This two (2) year suspension is consistent with the Supreme Court Rules for the Government of the Bar of Ohio that “[n]o petition for reinstatement to the practice of law may be filed or entertained by the Supreme Court within two years of . . . [t]he entry of an order suspending the petitioner from the practice of law for an indefinite period” See Gov. Bar. R. V, Section 25(A).

On June 20, 2017, the Supreme Court of Ohio ordered that Respondent be indefinitely suspended for violating Ohio Rules of Professional Conduct 8.4(b) and 8.4(h) identified in *Disciplinary Counsel v. Martyniuk*, Slip Opinion No. 2017-Ohio-4329. The violations resulted from Respondent's plea of guilty to twenty (20) fourth-degree-felony counts of pandering sexually oriented material involving a minor in violation of Ohio Revised Code § 2907.322(A)(5).

This action is taken pursuant to the provisions of 35 U.S.C. § 32 and 37 C.F.R. § 11.24. Disciplinary decisions are available for public review at the Office of Enrollment and Discipline's FOIA Reading Room, located at: <http://e-foia.uspto.gov/Foia/OEDReadingRoom.jsp>;

3. Respondent shall not apply for for reinstatement pursuant to 37 C.F.R. § 11.60 within two years from the date of this Final Order;

4. The OED Director 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;

5. Respondent shall comply with the duties enumerated in 37 C.F.R. § 11.58;

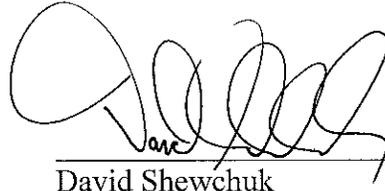
5. The USPTO dissociate Respondent's name from any Customer Numbers and the public key infrastructure ("PKI") certificate associated with those Customer Numbers; and

6. Respondent shall not apply for a USPTO Customer Number, shall not obtain a USPTO Customer Number, nor shall he have his name added to a USPTO Customer Number, unless and until he is reinstated to practice before the USPTO.

[SIGNATURE ON FOLLOWING PAGE]

5/25/18

Date



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

on delegated authority by

Andrei Iancu
Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office

cc:

OED Director

Mr. Peter T. Cahoon, Esq.
Buckingham, Doolittle & Burroughs, LLC
3800 Embassy Pkwy, Suite 300
Akron, OH 44333

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Final Order Pursuant to 37 C.F.R. § 11.24, was mailed by first-class certified mail, return receipt requested, on this day to the Respondent's Counsel:

Mr. Peter T. Cahoon, Esq.
Buckingham, Doolittle & Burroughs, LLC
3800 Embassy Pkwy, Suite 300
Akron, OH 44333

5/25/18
Date



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

Exhibit 1



BUCKINGHAM
Est. 1913

Peter T. Cahoon, Esq.

d: 330.258.6534 • df: 330.252.5534

May 23, 2018

via e-mail and U.S. Mail

Tricia Choe, Esquire
Associate Counsel
Office of General Counsel
Attn: Deputy Attorney Counsel
for General Law
United States Patent & Trademark Office
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Alexandria, VA 22313-1450
[REDACTED]

Sydney O. Johnson, Esquire
Senior Counsel for Enrollment &
Discipline Litigation
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Office of the Solicitor
P.O. Box 1450
Alexandria, VA 22313-1450
[REDACTED]

Re: In the Matter of: Andrew O. Martyniuk (My Client)
Proceeding No. D2018-05

Dear Ms. Choi and Ms. Johnson:

As your records will reflect, I represent the above-captioned Andrew O. Martyniuk, concerning the matter of the pending disciplinary action against him.

I have obtained Mr. Martyniuk's consent to advise you that Mr. Martyniuk does not contest reciprocal discipline to that which has already been imposed by the Ohio Supreme Court likewise being imposed by the United States Patent & Trademark Office.

I am respectfully requesting that any order so imposing reciprocal discipline reflect Mr. Martyniuk's consent in this regard.

Thank you for your consideration.

Sincerely,

Peter T. Cahoon

PTC:csb
cc: Mr. Andrew O. Martyniuk (*via e-mail*)

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