

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

In the Matter of)
)
Reyner Meikle,)
)
Respondent)
_____)

Proceeding No. D2019-17

FINAL ORDER

The Director of the Office of Enrollment and Discipline (“OED Director”) for the United States Patent and Trademark Office (“USPTO” or “Office”) and Mr. Reyner Meikle (“Respondent”) have submitted a Proposed Settlement Agreement (“Agreement”) to the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office (“USPTO Director”) for approval.

The Agreement, which resolves all disciplinary action by the USPTO arising from the stipulated facts set forth below, is hereby approved. This Final Order sets forth the parties’ joint stipulated facts, joint legal conclusions, and agreed-upon sanctions found in the Agreement.

Jurisdiction

1. Respondent of Wilmington, Delaware, is a non-patent attorney authorized to practice before the USPTO in trademark matters pursuant to 37 C.F.R. § 11.14(a) and is therefore subject to the USPTO Rules of Professional Conduct, which are set forth at 37 C.F.R. §§ 11.101 through 11.901.

2. The USPTO Director has jurisdiction over this matter pursuant to 35 U.S.C. §§ 2(b)(2)(D) and 32 and 37 C.F.R. §§ 11.19, 11.20, and 11.26.

Joint Stipulated Facts

3. Respondent is an attorney in good standing and admitted to practice in the State of Delaware.

4. Respondent is the Chief Executive Officer and President of Virtual Paralegal Services (“VPS”), a paralegal outsourcing business headquartered in Delaware.

5. VPS provides paralegal assistance and support to practitioners and corporate entities that do not have in-house paralegals or legal assistants but are in need of assistance in preparing and filing legal documents which include trademark application filings before the USPTO. Also, on a few occasions, VPS provided such assistance directly to non-practitioner trademark applicants.

6. VPS paralegals perform their duties from various geographical areas other than in or around Delaware, including New York, Florida, and Texas.

7. VPS paralegals take direction from, and are generally supervised by, the VPS client (typically a practitioner). At all relevant times, however, Respondent, as a practitioner with ultimate managerial authority over the VPS paralegals, was responsible for ensuring that VPS paralegals’ conduct was compatible with his professional obligations under the USPTO Rules of Professional Conduct.

8. USPTO regulations require all electronic signatures to be personally entered by the person named as the signatory on the trademark document and require that a proper person must sign the trademark document. *See* 37 C.F.R. §§ 2.193(a)(2) and (e). The electronic signature regulations also state that a person signing a document electronically

must personally enter any combination of letters, numbers, spaces and/or punctuation marks that he or she has adopted as a signature, placed between two forward slash (“/”) symbols in the signature block on the electronic submission. *See* 37 C.F.R. § 2.193(c).

9. The USPTO Trademark Manual of Examining Procedure (“TMEP”) provides guidance regarding the USPTO trademark electronic signature regulations as follows:

All documents must be personally signed. 37 C.F.R. §§ 2.193(a)(1), (c)(1), 11.18(a).

The person(s) identified as the signatory must manually enter the elements of the electronic signature.

Another person (e.g., paralegal, legal assistant, or secretary) may not sign the name of a qualified practitioner or other authorized signatory.

Just as signing the name of another person on paper does not serve as the signature of the person whose name is written, typing the electronic signature of another person is not a valid signature by that person.

See TMEP § 611.01(c) (case citations omitted) (line spacing added).

10. There are thirty-five (35) affected trademark filings, which Respondent cannot verify his compliance with 37 C.F.R. § 2.193, where VPS paralegals entered the keystrokes constituting the electronic signature of the named signatory on the 35 trademark filings. Hence, the electronic signatures of the named signatories did not comply with 37 C.F.R. § 2.193 and did not follow the guidance set forth in TMEP § 611.01(c).

11. Respondent acknowledges that he did not adequately understand the USPTO’s trademark signature requirement that another person may not sign the name of the named

signatory on a USPTO trademark filing; instead, he mistakenly relied on the consent from each named signatory to do so.

12. Respondent further acknowledges that (a) relying on client corporate legal department and attorneys to supervise VPS paralegals assigned likely contributed to the signing of the affected trademark filings in violation of the USPTO trademark signature rules and (b) a lack of adequate supervision over non-practitioner assistants to ensure compliance with the USPTO's trademark signature regulations and guidance likely contributed to non-practitioner assistants entering the named signatory's electronic signature on trademark filings in violation of the USPTO trademark signature rules.

Additional Considerations

13. Respondent represents the following:
- a. In fourteen (14) years of practice, Respondent has not been subject to any prior investigations by OED or the Office of Disciplinary Counsel ("ODC") of the Supreme Court of Delaware, has not been issued any private warnings by OED or ODC, and has not been formally disciplined by OED or ODC.
 - b. Throughout the course of OED's investigation, Respondent was fully cooperative with OED. He provided full, fair, and timely responses to requests for information and evidence issued by OED.
 - c. Respondent has undertaken an extensive search of VPS's trademark filings since January 1, 2013, to uncover and identify all trademark filings that did not comply with the USPTO signature rules.
 - d. Respondent has revised guidelines for VPS paralegals to ensure compliance and conformance with all relevant USPTO rules and regulations.
 - e. Respondent recognizes the seriousness of his non-practitioner assistants' impermissible signing of others' signatures and the possible detrimental effect such signing may have had on trademark clients' intellectual property rights. Respondent, as a practitioner with ultimate managerial authority over VPS paralegals, has accepted responsibility for the actions

of VPS paralegals even though VPS paralegals took directions from and were generally supervised by others.

Joint Legal Conclusions

14. Respondent acknowledges that, based on the joint stipulated facts above, he violated the following provisions of the USPTO Rules of Professional Conduct:
- a. 37 C.F.R. § 11.101 (requiring a practitioner to provide competent representation to a client) by representing clients before the Office in trademark matters without understanding adequately the USPTO trademark electronic signature regulations or TMEP guidance;
 - b. 37 C.F.R. § 11.503(b) (requiring a practitioner having direct supervisory authority over a non-practitioner assistant to, *inter alia*, make reasonable efforts to ensure that the non-practitioner's conduct is compatible with the professional obligations of the practitioner) by not adequately supervising non-practitioner assistants to ensure compliance with the USPTO's trademark signature rules and guidance by allowing or otherwise permitting VPS paralegals to personally enter the elements of the named signatory's electronic signature rather than having the named signatory do so;
 - c. 37 C.F.R. § 11.804(c) (proscribing engaging in conduct involving misrepresentation) by allowing someone other than the named signatory, *i.e.*, non-practitioner assistants, to personally enter the elements of the named signatory's electronic signature rather than having the named signatory do so where such impermissibly signed documents were filed with the USPTO; and
 - d. 37 C.F.R. § 11.804(d) (proscribing engaging in conduct prejudicial to the administration of justice) by allowing someone other than the named signatory, *i.e.*, non-practitioner assistants, to personally enter the elements of the named signatory's electronic signature rather than having the named signatory do so where such impermissibly signed documents were filed with the USPTO.

Agreed-Upon Sanction

15. Respondent freely and voluntarily agrees, and it is hereby ORDERED that:

- a. Respondent shall be publicly reprimanded;
- b. Respondent shall, within 30 days of the date of this Final Order, notify in writing (whether to the direct applicant client or the client practitioner retained by VPS), via U.S. Postal Service certified mail return receipt requested, each of the clients in the 35 affected trademark filings of the following: (1) the lack of compliance with the USPTO electronic signature regulations; (2) the potential and actual adverse consequences to the applicant's intellectual property rights in the applicant's pending trademark application(s) or to the applicant's registered mark(s) as a result of the lack of compliance with the USPTO electronic signature rules; and (3) corrective action to be taken, if any, to address the potential and actual adverse consequences;
- c. Respondent shall, within 45 days of the date of this Final Order approving the parties' settlement, submit an affidavit to the OED Director stating that he has complied with the provisions of the previous subparagraph and provide corroborating evidence (*e.g.*, copies of the written notification and evidence of delivery of the written notification);
- d. Respondent shall, within six (6) months from the date of this Final Order, enroll, complete, and receive Continuing Legal Education Credit under the rules of the Delaware State Bar for at least two courses totaling four (4) hours where, respectively, the primary subject matters are (i) law office management and (ii) trademark practice before the USPTO;
- e. Respondent shall, within seven (7) months of the date of this Final Order approving the parties' settlement, submit an affidavit to the OED Director stating that he has complied with the provisions of the previous subparagraph and provide corroborating evidence, namely: copies of the certificates of course completion, a description of the content of the course for which credit was received, and a copy of written materials provided to the course participants;
- f. Nothing in the Settlement Agreement or this Final Order shall prevent the USPTO from considering the record of this disciplinary proceeding, including this Final Order: (1) when addressing any further complaint or evidence of the same or similar misconduct concerning Respondent brought to the attention of the Office; (2) in any future disciplinary proceeding against Respondent (i) as an aggravating factor to be taken into consideration in determining any discipline to be imposed, and/or (ii) to rebut any statement or representation by or on Respondent's behalf; and (3) in connection with any request for reconsideration submitted by Respondent pursuant to 37 C.F.R. § 11.60;

- g. The OED Director electronically publish the Final Order at OED's electronic FOIA Reading Room, which is publicly accessible at: <http://e-foia.uspto.gov/Foia/OEDReadingRoom.jsp>;
- h. The OED Director publish a notice in the *Official Gazette* that is materially consistent with the following:

Notice of Reprimand

This notice concerns non-registered practitioner, Reyner Meikle of Wilmington, Delaware, who is hereby publicly reprimanded for violating 37 C.F.R. 11.101, 11.503(b), 11.804(c), and 11.804(d) predicated on his non-practitioner assistants electronically signing USPTO trademark filings on behalf of the named signatories in violation of the USPTO trademark electronic signature regulations and guidance.

USPTO trademark signature regulations require all electronic signatures to be personally entered by the named signatory and require that a proper person must sign the trademark document. *See* 37 C.F.R. § 2.193(a) and (e). The agency's electronic signature regulations also state that a person signing a document electronically must personally enter any combination of letters, numbers, spaces and/or punctuation marks that he or she has adopted as a signature, placed between two forward slash (“/”) symbols in the signature block on the electronic submission. *See* 37 C.F.R. § 2.193(c).

Additionally, the USPTO Trademark Manual of Examining Procedure (“TMEP”) provides guidance regarding the USPTO trademark electronic signature regulations:

All documents must be personally signed.
37 C.F.R. §§ 2.193(a)(1), (c)(1), 11.18(a).

The person(s) identified as the signatory must manually enter the elements of the electronic signature.

Another person (*e.g.*, paralegal, legal assistant, or secretary) may not sign the name of a qualified practitioner or other authorized signatory.

Just as signing the name of another person on paper does not serve as the signature of the person whose

name is written, typing the electronic signature of another person is not a valid signature by that person.

See TMEP § 611.01(c) (case citations omitted) (line spacing added).

Mr. Meikle's company provided paralegal services to trademark clients. He had ultimate managerial authority over his non-practitioner assistants even though the non-practitioner assistants took directions from, and were generally supervised by, others (*i.e.*, client trademark practitioners). Contrary to the above regulations and TMEP guidance, Mr. Meikle mistakenly relied on consent from each named signatory and permitted his non-practitioner assistants to improperly sign trademark filings on behalf of the named signatory in up to thirty-five (35) trademark filings.

Throughout the course of OED's investigation, Mr. Meikle was fully cooperative with OED. He provided full, fair, and timely responses to requests for information and evidence issued by OED. Additionally, Mr. Meikle *sua sponte* made changes in his law office management to ensure that the impermissible signing of trademark filings does not reoccur.

Mr. Meikle's acts and omissions violated, *inter alia*, the following USPTO Rules of Professional Conduct: 37 C.F.R. §§ 11.101 (requiring a practitioner to provide competent representation to a client) by not understanding adequately the USPTO trademark electronic signature regulations or TMEP guidance; 11.503(b) requiring a practitioner who has direct supervisory authority over the non-practitioner assistant to, *inter alia*, make reasonable efforts to ensure that the non-practitioner's conduct is compatible with the professional obligations of the practitioner) by not adequately supervising non-practitioner assistants to ensure compliance with the USPTO's trademark signature rules and guidance by allowing or otherwise permitting non-practitioner assistants to personally enter the elements of the named signatory's electronic signature rather than having the named signatory do so; 11.804(c) (proscribing engaging in conduct involving misrepresentation); and 11.804(d) (proscribing engaging in conduct prejudicial to the administration of justice) by allowing someone other than the named signatory - *i.e.*, non-practitioner assistants - to personally enter the elements of the named signatory's electronic signature rather than having the named signatory do

so where such impermissibly signed documents were filed with the USPTO.

Practitioners who represent trademark applicants before the USPTO have an ethical obligation to provide competent representation to a client, which includes the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation. *See generally* 37 C.F.R. § 11.101. Accordingly, practitioners who represent trademark applicants before the USPTO in trademark matters are reasonably expected to be knowledgeable of USPTO regulations and guidance pertaining to the electronic signing of USPTO trademark documents.

Practitioners who represent trademark applicants before the USPTO have an ethical obligation to keep clients reasonably informed about the status of matters entrusted to the practitioner. *See* 37 C.F.R. § 11.104. Hence, where a trademark practitioner learns of an impermissibly signed trademark filing, the practitioner may have the ethical obligation to so inform the client of the actual or potential consequences to a pending application or issued registration. *See generally* 37 C.F.R. § 11.104.

Practitioners who represent trademark applicants before the USPTO also have an ethical obligation to the USPTO not to make misrepresentations to the USPTO and not to engage in conduct that is prejudicial to the integrity of the USPTO trademark registration process. *See generally* 37 C.F.R. §§ 11.804(c) and 11.804(d). Accordingly, practitioners who represent trademark applicants before the USPTO in trademark matters are reasonably expected not to file, or allow to be filed, declarations or other trademark documents that do not comply with the agency's electronic signature regulations. And where a practitioner learns that such impermissibly signed documents have been filed with the USPTO, then practitioner may have the ethical obligation to inform the USPTO promptly of the affected trademark filing. *See* 37 C.F.R. § 11.303.

This action is the result of a settlement agreement between Mr. Meikle and the OED Director pursuant to the provisions of 35 U.S.C. §§ 2(b)(2)(D) and 32 and 37 C.F.R. §§ 11.19, 11.20, and 11.26. Disciplinary decisions involving practitioners are posted for public reading at the Office of Enrollment and Discipline Reading Room accessible at:
<http://e-foia.uspto.gov/Foia/OEDReadingRoom.jsp>.

- i. Respondent waives all rights to seek reconsideration of the Final Order under 37 C.F.R. § 11.56, waives the right to have the Final Order reviewed under 37 C.F.R. § 11.57, and waives the right otherwise to appeal or challenge the Final Order in any manner; and
- j. The OED Director and Respondent shall each bear their own costs incurred to date and in carrying out the terms of the Agreement and the Final Order.

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

3/21/19
Date

on delegated authority by

Andrei Iancu
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
U.S. Patent and Trademark Office

Mr. Reyner Meikle
c/o Mr. Chris Olszyk
Fox Rothschild LLP
2000 Market Street
20th Floor
Philadelphia, PA 19103-3222

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Final Order was sent to the parties in the matter indicated.

To Respondent vial first-class mail, certified receipt requested:

Mr. Reyner Meikle
c/o Mr. Chris Olszyk
Fox Rothschild LLP
2000 Market Street
20th Floor
Philadelphia, PA 19103-3222

To the OED Director via email:



3/22/2019
Date

A handwritten signature in black ink, appearing to be "C. A. Olszyk", written over a horizontal line.

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