

**UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE ADMINISTRATIVE LAW JUDGE
UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

In the Matter of)	
)	
Ryan J. Cann,)	Proceeding No. D2024-06
)	
Respondent)	
_____)	

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 Ryan J. Cann (“Respondent”) have submitted a Proposed Settlement Agreement (“Agreement”) to the Under Secretary of Commerce for Intellectual Property and the 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’ stipulated facts, legal conclusions, and sanctions.

JURISDICTION

1. Respondent is an attorney who has been licensed to practice law in the State of Nevada since October 14, 2008. His Nevada Bar Number is 11073.

2. At all times relevant to this Complaint, Respondent was registered to practice before the USPTO in patent matters since July 28, 2008. Respondent’s USPTO Registration Number is 62,815.

3. Respondent was initially registered as a patent agent, and, on November 4, 2015, Respondent’s registration status was changed to patent attorney.

4. On July 2, 2008, Respondent signed an Oath or Affirmation in which he swore or affirmed that he would observe the laws and rules of practice of the USPTO if admitted to practice before the USPTO.

5. As a registered practitioner, Respondent is subject to the USPTO Rules of Professional Conduct, which are set forth at 37 C.F.R. §§ 11.101 through 11.901.

6. 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, 11.26, 11.32, and 11.39.

Joint Stipulated Facts

7. Respondent was a solo practitioner and he is the sole principal of Cann IP, Patent and Trademark Law, which maintains its office in Reno, Nevada.

A. Prior Public Discipline

a. October 17, 2019 Letter of Reprimand from State Bar of Nevada

8. On October 17, 2019, the State Bar of Nevada issued a public Letter of Reprimand to Respondent in connection with his representation of a client in a response to an Office action in a U.S. Patent Application. The Letter of Reprimand indicated that Respondent violated Nevada Rules of Professional Conduct 1.3 (diligence) and 1.4 (communication).

9. The Letter of Reprimand stemmed from delay and lack of diligence when a patent client retained Respondent to respond to an Office action having an initial due date of January 30, 2019, and a final due date of April 30, 2019.

10. Respondent repeatedly informed the client that he would have the response to Office action filed shortly. However, Respondent did not meet these deadlines.

11. The Letter of Reprimand notes that, as of June 7, 2019, the application was regarded as abandoned by the USPTO.

12. Based on this lack of diligence and communication concerning the Response to Office action in his client's patent application, the State Bar of Nevada formally disciplined Respondent by issuing him the public Letter of Reprimand.

b. December 1, 2021 Public Reprimand from State Bar of Nevada

13. Based upon misconduct with regard to two additional patent clients and their respective patent applications, on December 1, 2021, the State Bar of Nevada publicly reprimanded Respondent for violating Nevada Rules of Professional Conduct 1.3 (diligence) and 1.15 (safekeeping property).

14. The December 1, 2021 public reprimand stemmed from Respondent's failure to timely prepare patent applications on behalf of the two clients and his acceptance of advance payment of fees that were not deposited into a client trust account as Nevada's ethics rules required.

15. In mid-2020, Respondent was hired by two separate clients to prepare and file their respective patent applications.

16. Respondent failed to timely prepare either of the patent applications. In addition, Respondent engaged in misconduct with regard to these two clients when he accepted advance payment of half of the flat fee for the clients' respective legal services but failed to deposit those fees into a client trust account.

17. Based on this lack of diligence and failure to safekeep property in Respondent's representation of the two clients for their patent applications, the State Bar of Nevada formally

disciplined Respondent by publicly reprimanding him. As part of his discipline by the Nevada State Bar, Respondent was ordered to provide proof that he had opened a client trust account.

c. January 6, 2023 Public Reprimand from USPTO

18. The USPTO imposed reciprocal discipline on Respondent pursuant to 37 C.F.R. § 11.24 based on the 2021 Nevada-imposed public reprimand. Specifically, on January 6, 2023, the USPTO issued a Final Order publicly reprimanding Respondent.

B. Representation of Client 1 & 2

19. Client 1 & 2 hired Respondent to draft and file their non-provisional patent application. They had previously filed their own provisional application for their invention.

20. In his engagement agreement with Client 1 and 2, Respondent improperly indicated that his legal fees were earned upon receipt.

21. In addition to preparing and filing the non-provisional, Respondent drafted a non-disclosure agreement and a Patent Cooperation Treaty (PCT) application.

22. Respondent and Client 1 & 2 signed an engagement agreement on May 28, 2018. After entering into the engagement agreement, Respondent repeatedly promised to provide them with the draft of their application, but it was not until October 5, 2018, when he provided the first draft to them.

23. Respondent promised to have another draft by October 26, 2018, but he did not meet this deadline. In November and December 2018, he promised that they would be able to file their non-provisional patent application by the end of the year, but he did not do so and, instead, went on to miss an additional ten deadlines before providing a second draft of the application to Client 1 & 2 on April 30, 2019.

24. Respondent finally filed Client 1 & 2's non-provisional patent application on May 7, 2019.

25. Respondent attempted but failed to make a proper benefit claim to the previously-filed provisional application. He failed to input the provisional patent application number in the correct space. Although this mistake was correctable, Respondent ignored USPTO correspondence notifying him of the lack of a benefit claim, and he never properly claimed the benefit of the filing date of the provisional application for Client 1 & 2's non-provisional patent application.

26. Respondent also received correspondence from the USPTO notifying him that the non-provisional patent application had certain defects. This correspondence indicated that failure to timely respond and correct these defects would result in abandonment of the application. After failing to respond to this correspondence, the non-provisional patent application went abandoned in July 2019.

27. On November 7, 2020, Respondent communicated with Client 1 & 2 regarding their PCT application and misrepresented that the non-provisional patent application was "still pending" despite it having been abandoned for more than a year.

28. In addition to his mishandling of the non-provisional patent application, Respondent did not deposit Client 1 & 2's prepaid legal fees and filing fees into a client trust account.

C. Representation of Client 3

29. Respondent entered into an engagement agreement with Client 3 to prepare and file a non-provisional patent application. Client 3 had previously filed a provisional patent application for his invention.

30. In his engagement agreement with Client 3, Respondent improperly indicated that his legal fees were earned upon receipt.

31. Respondent improperly attempted to claim the benefit of the filing date of the provisional patent application despite failing to file the non-provisional patent application within the required time period.

32. Respondent failed to communicate adequately with Client 3. He repeatedly ignored Client 3's attempts to contact him.

33. Respondent also mishandled Client 3's non-provisional patent application in other ways, including ignoring important Office correspondence, which led to the non-provisional patent application going abandoned without the knowledge or consent of Client 3.

34. Although the non-provisional patent application was abandoned, Respondent misrepresented to Client 3's that the application was still pending and awaiting examination.

D. Representation of Client 4

35. Respondent entered into an engagement agreement with Client 4 to prepare and file his non-provisional patent application. On November 22, 2019, Respondent filed Client 4's non-provisional patent application.

36. In his engagement agreement with Client 4, Respondent improperly indicated that his legal fees were earned upon receipt.

37. On October 26, 2021, the USPTO issued a Notice of Allowance and Fees Due. The Notice informed Respondent that the Issue Fee was due on January 26, 2022, and that failure to timely pay the Issue Fee would result in abandonment of the application.

38. Respondent never told Client 4 about the Notice of Allowance.

39. On November 1, 2021, the USPTO issued a correspondence indicating that certain informalities with the drawing needed to be corrected prior to issuance.

40. Respondent did not respond to the correspondence from the Office. As a result, on February 10, 2022, the USPTO issued a Notice of Abandonment in the non-provisional patent application. The application went abandoned without Client 4's knowledge or consent.

41. Respondent repeatedly failed to respond to Client 4's attempts to communicate with Respondent via telephone or email.

42. Respondent never told Client 4 that the non-provisional patent application had become abandoned.

E. Representation of Client 5

43. Respondent entered into an engagement agreement with Client 5 to prepare and file his design patent application.

44. In his engagement agreement with Client 5, Respondent improperly indicated that his legal fees were earned upon receipt.

45. On August 3, 2020, Respondent filed Client 5's design patent application. However, he did so without submitting the required inventor's oath or declaration.

46. The USPTO issued a Notice to File Missing Parts. Respondent did not file a response to the Notice to File Missing Parts. Because there was no reply to the Notice to File Missing Parts, the USPTO issued a Notice of Abandonment.

47. Client 5's patent application went abandoned without his knowledge or consent. Client 5 thought that Respondent had successfully filed his design patent application until OED contacted him and informed him of the status of the application.

Joint Legal Conclusions

48. Respondent acknowledges that, based on the information contained in the Joint Stipulated Facts, above, Respondent's acts and omissions violated the following provisions of the USPTO Rules of Professional Conduct in connection with his patent practice before the USPTO:

- a. 37 C.F.R. § 11.101 (not providing competent representation to his clients) by, *inter alia*, failing to obtain the earliest reasonably possible filing dates for client applications, including through proper benefit claims, failing to respond to USPTO correspondence relating to client benefit claims, failing to inform and advise clients on benefit claim timelines, failing to respond USPTO correspondence relating to USPTO correspondence impacting his client's patent applications, failing to meet formal requirements for patent applications, including correcting certain informalities with drawings and/or failing to file an Inventor's oath or declaration, misstating in his engagement letter that fees are earned upon receipt where, under the circumstances presented, they were not, and allowing his clients' patent applications to go abandoned without the clients' knowledge or consent;
- b. 37 C.F.R. § 11.103 (not acting with reasonable diligence and promptness) by, *inter alia*, failing to inform his clients of USPTO communications, failing to respond to USPTO correspondence relating to clients' patent applications, including communications relating to client benefit claims, failing to respond to client inquiries, failing to meet agreed upon client deadlines, allowing his clients' patent applications to go abandoned without his clients' knowledge or consent, and failing to inform his clients that the clients' patent applications had gone abandoned;
- c. 37 C.F.R. §§ 11.104(a)(2), (a)(3), and (b) (failing to adequately communicate with clients) by, *inter alia*, failing to inform his clients of USPTO communications issued in their patent matters; failing to respond to client inquiries in a timely and meaningful manner or not at all; misstating in his engagement letter that fees are earned upon receipt where, under the circumstances presented, they were not; and failing to inform his clients that the clients' patent applications had gone abandoned;
- d. 37 C.F.R. § 11.115(a) & (c) (failure to safekeep client property) by, *inter alia*, failing to hold client funds (i.e., for legal fees and USPTO fees) received in advance separate from his own property by placing such funds into an operating account instead of a client trust account; and
- e. 37 C.F.R. § 11.804(c) (engaging in conduct involving misrepresentation) by, *inter alia*, providing false or misleading information to clients about the pending status of their patent applications when, in fact, the applications had been abandoned and were not pending.

Agreed-Upon Sanction

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

a. Respondent is suspended from practice before the Office in patent, trademark, and other non-patent related matters for a period of twenty-four (24) months commencing on the date of the Final Order approving this Agreement;

b. Respondent is to remain suspended from practice before the USPTO until the OED Director grants a petition requesting Respondent's reinstatement pursuant to 37 C.F.R. § 11.60;

c. Respondent shall comply fully with 37 C.F.R. § 11.58;

d. Respondent, given the extraordinary circumstances presented in this case and requirements of justice, shall be granted limited recognition for a period of sixty (60) days starting on the date of the Final Order approving this Agreement for the sole purpose of affording Respondent adequate time to conclude work on behalf of a client on any matters pending before the Office, but, if such work cannot be concluded, Respondent shall so advise client(s) so that the client(s) may make other arrangements;

e. Effective the date of the expiration of the 60-day period of limited recognition, the USPTO is hereby authorized to disable or suspend any USPTO.gov accounts registered to Respondent as of the date of this Final Order (including all accounts that Respondent has ever established, sponsored, and/or used in connection with any patent or trademark matters);

f. Respondent shall not apply for a USPTO verified Electronic System account, shall not obtain a USPTO verified Electronic System account, nor shall he have his name added to a USPTO verified Electronic System account, unless and until he is reinstated to practice before the USPTO;

g. Immediately upon expiration of the 60-day period of limited recognition, Respondent is prohibited from using, assessing, or assisting others in using or accessing any USPTO.gov account(s) or other USPTO filing systems for preparing or filing documents with the USPTO;

h. Until a petition seeking Respondent's reinstatement to practice before the USPTO is granted pursuant to 37 C.F.R. § 11.60, Respondent shall be prohibited, and the USPTO is authorized to disallow Respondent, from the following: (1) opening or activating any USPTO.gov account(s) to be used for preparing or filing documents with the USPTO; (2) applying for, or attempting to apply for any USPTO.gov account(s) to be used for preparing or filing documents with the USPTO; (3) verifying, or attempting to verify, any other person's credentials in connection with USPTO.gov account(s) to be used for preparing or filing documents with the USPTO; and (4) sponsoring or attempting to sponsor USPTO.gov account(s) to be used for preparing or filing documents with the USPTO;

i. Nothing herein shall obligate the USPTO to take action, *sua sponte*, to re-activate any USPTO.gov account disabled or suspended pursuant to this order; rather, it is Respondent's sole responsibility to initiate any such re-activation of any such USPTO.gov account;

j. Respondent shall serve a probationary period starting from the date of the Final Order approving this Agreement and continuing for twenty-four (24) months from the date the OED Director grants a petition seeking Respondent's reinstatement to practice before the USPTO;

k. (1) If the OED Director is of the good faith opinion that Respondent, during Respondent's probationary period, failed to comply with any provision of this Agreement, the Final Order, or any provision of the USPTO Rules of Professional Conduct, the OED Director shall:

(A) issue to Respondent an Order to Show Cause why the USPTO Director should not enter an order immediately suspending the Respondent for up to an additional six (6) months days for the violations set forth in the Joint Legal Conclusions, above;

(B) send the Order to Show Cause to Respondent at the last address of record Respondent furnished to the OED Director;

(C) grant Respondent fifteen (15) days to respond to the Order to Show Cause;
and

(2) In the event that after the fifteen (15) day period for response and consideration of the response, if any, received from Respondent, the OED Director continues to be of the opinion that Respondent, during Respondent's probationary period, failed to comply with the USPTO Rules of Professional Conduct, the OED Director shall:

(A) deliver to the USPTO Director: (i) the Order to Show Cause; (ii) Respondent's response to the Order to Show Cause, if any; and (iii) argument and evidence supporting the OED Director's position; and

(B) request that the USPTO Director enter an order immediately suspending Respondent for up to an additional six (6) months for the violations set forth in the Joint Legal Conclusions above;

I. Nothing herein shall prevent the OED Director from seeking discrete discipline for any misconduct that formed the basis for an Order to Show Cause issued pursuant to the preceding subparagraph;

m. In the event the Respondent seeks a review of any action taken pursuant to subparagraph k., above, such review shall not operate to postpone or otherwise hold in abeyance the suspension;

n. As a condition of his probation, Respondent shall have a Patent Practice Monitor during the 24-month probationary period that commences upon his being reinstated to practice before the Office.

o. Respondent shall be responsible for (a) finding a person to serve as the Practice monitor and (b) paying all costs associated with the Patent Practice Monitor, including the costs, expenses, and fees of the practice monitor (if any are so charged by such Patent Practice Monitor);

p. The Patent Practice Monitor shall be a person (1) who is registered by the USPTO to practice before the Office in patent matters, (2) who is in “active” status before the USPTO during such portion of the probation, and (3) who has been continuously engaged in patent practice before the Office for at least five (5) years immediately preceding Respondent’s reinstatement;

q. Respondent shall provide the Patent Practice Monitor with firm documents, client records, and other information the practice monitor may request concerning the report, inquiry, and audit referenced in subparagraphs r, s, and t;

r. Every three (3) months the Patent Practice Monitor shall submit a written report to the OED Director verifying whether, in the professional opinion of the practice monitor—formed after conducting an inquiry reasonable under the circumstances, including, an audit of a reasonable number of Respondent’s filings— Respondent’s processes for obtaining and evaluating information concerning clients’ patent matters are adequate to ensure that Respondent’s presentation of documents to the USPTO comply with the MPEP; Respondent’s communications

with clients are timely; and Respondent timely reviews and responds to USPTO communications. The Patent Practice Monitor's quarterly report to the OED Director shall identify with specificity his or her concerns with Respondent's processes and Respondent's intended changes to address such concerns. Further, the Patent Practice Monitor's quarterly report to the OED Director shall identify the specific filings, in the professional opinion of the Patent Practice Monitor, represent significant problems requiring corrective action;

s. The Patent Practice Monitor's initial report shall be filed promptly with the OED Director within ninety-one (91) days of the date of a decision granting a petition requesting Respondent's reinstatement to practice before the Office, and the Practice Monitor's subsequent quarterly reports shall be promptly filed every ninety (90) days thereafter (*i.e.*, 181 days after granting such petition; 271 days after granting such petition; etc.);

t. Respondent is responsible for the timely submission of the Patent Practice Monitor's quarterly reports, and the failure of Respondent to ensure that the Patent Practice Monitor submits the required written reports promptly shall be appropriate grounds for the OED Director to issue a show cause pursuant to subparagraph k, above;

u. The intent of the Patent Practice Monitor's report, inquiry, and audit is to increase the effectiveness of the Patent Practice Monitor in assisting Respondent to represent clients before the Office competently and ethically. To the extent the Patent Practice Monitor has concerns based upon any aspect of the audit referenced in the preceding subparagraphs, the Patent Practice Monitor shall make suggestions or recommendations to Respondent to alleviate such concerns and to help ensure implementation of prudent and effective procedures. Specifically, the Patent Practice Monitor shall make specific suggestions necessary to assure that Respondent's presentation of patent documents to the Office complies with all provisions of the USPTO Manual

of Patent Examining Procedure (“MPEP”);

v. Respondent shall take reasonable steps to ensure that, whenever the Patent Practice Monitor views confidential client information, the practice monitor understands and agrees that such matters are to remain confidential pursuant to 37 C.F.R. § 11.106;

w. The OED Director electronically publish the Final Order at the OED’s electronic FOIA Reading Room, which is publicly accessible through the Office’s website at: <https://foiadocuments.uspto.gov/oed/>;

x. The OED Director shall publish a notice in the Official Gazette that is materially consistent with the following:

Notice of Suspension and Probation

This notice concerns Mr. Ryan J. Cann of Reno, Nevada, an attorney licensed in Nevada who engaged in practice before the United States Patent and Trademark Office (“USPTO” or “Office”). Mr. Cann is also a USPTO-registered patent attorney [REDACTED]. The USPTO Director has suspended Mr. Cann from practice before the Office in patent, trademark, and other non-patent related matters for a period of twenty-four (24) months; placed him on probation; and ordered that Mr. Cann obtain a Patent Practice Monitor upon being reinstated to practice before the Office. This disciplinary sanction is based on Mr. Cann having violated the following provisions of the USPTO Rules of Professional Conduct: 37 C.F.R. §§ 11.101 (lack of competence); 11.103 (lack of diligence); 11.104(a)(2), (a)(3), and (b) (inadequate communication with clients); 11.115(a) & (c) (failure to safekeep client property); and 11.804(c) (engaging in conduct involving misrepresentation).

Mr. Cann repeatedly failed to communicate with his clients despite each client’s numerous attempts to contact him. In two cases, Respondent finally communicated with clients, but provided inaccurate, false, or misleading information to them about the status of their patent applications by telling them that their patent applications were still pending when in fact they had been abandoned.

Respondent made numerous mistakes when filing his clients’ patent applications and did not reply to Office communications. In several cases Respondent told clients that they would obtain the benefit of the filing date from their provisional applications, but, in two instances, he made mistakes in connection with filing the non-provisional patent application resulting in the

benefit not being obtained. In another instance, Respondent filed the non-provisional outside of the required time period to claim benefit of the filing date of an earlier filed provisional application and did not so inform his clients. In at least four of his clients' matters, Respondent mishandled clients' non-provisional patent applications, including allowing them to go abandoned without the clients' knowledge or consent. Respondent did not inform his clients that their patent applications were abandoned. Respondent neglected his clients' matters to their detriment.

Respondent also failed to safeguard his clients' funds he received in advance for legal fees and USPTO fees by not placing those funds in a client trust account as required by the USPTO Rules of Professional Conduct.

This action is the result of a settlement agreement between Mr. Cann 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: <https://foiadocuments.uspto.gov/oed>;

y. Nothing in the Final Order approving this Agreement shall prevent the Office from considering the record of this disciplinary proceeding, including the Final Order: (1) when addressing any further complaint or evidence of 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/or (3) in connection with any request for reconsideration submitted by Respondent pursuant to 37 C.F.R. § 11.60;

z. Based on Respondent's agreement to do so, 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;

aa. Within a reasonable period after the entry of the Final Order approving this Agreement, the OED Director shall file a motion dismissing the pending disciplinary action without prejudice; and

bb. As a condition of being reinstated, Respondent shall comply fully with all provisions of 37 C.F.R. § 11.60.

Users,
Seifert,
Jennifer

Digitally signed by
Users, Seifert, Jennifer
Date: 2025.02.07
14:04:44 -05'00'

Jennifer R. Seifert
Associate General Counsel for General Law
United States Patent and Trademark Office

Date


on delegated authority by

Coke Morgan Stewart,
Acting Under Secretary of Commerce for Intellectual Property and
Acting Director of the United States Patent and Trademark Office

Certificate of Service

I hereby certify the foregoing Final Order was transmitted by e- mail, on this day, to parties as follows:

Ryan Cann


Respondent

And to the OED Director via email at:

Melinda DeAtley


John Ferman

Mary Brannen

melinda.deatley@uspto.gov

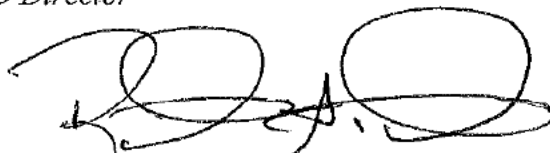
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2/7/2025

DATE



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