

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

In the Matter of)	
)	
Raymond Chew,)	Proceeding No. D2023-08
)	
Respondent)	
_____)	

FINAL ORDER PURSUANT TO 37 C.F.R. § 11.26

The Director of the Office of Enrollment and Discipline (“OED Director”) for the United States Patent and Trademark Office (“USPTO” or “Office”) and Raymond Chew (“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 Sanction found in the Agreement.

Jurisdiction

1. At all times relevant hereto, Respondent of Murrieta, California, was a registered patent agent (Registration Number 63,989). Respondent is subject to the USPTO Rules of Professional Conduct, 37 C.F.R. § 11.101 *et seq.*

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. At all times relevant, Respondent was a registered patent agent.
4. Respondent represents that he is a non-native speaker of the native language of his clients.
5. Respondent was the attorney of record on approximately 4,000 design patent applications filed with the USPTO on behalf of applicants between August 2019 and September 2021 (“the relevant time period”).
6. The USPTO issued Notices of Additional Fees Due in 171 design patent applications in which Respondent signed and filed a Certification of Micro Entity Status as the authorized party during the relevant time period.
7. These Notices were issued based on the appearance that the micro entity application filing limit was exceeded by the applicant for each of the applications. *See* 37 C.F.R. § 1.29(a)(2).
8. Upon notification by the USPTO, Respondent timely changed the entity status and paid the deficiency fee on all the applications that remained active.
9. Respondent proactively identified other Certifications of Micro Entity Status that he filed with the USPTO in error and has changed the entity status and paid the deficiency fee on the applications that remained active.
10. Despite changing the entity status and paying the deficiency fee, Respondent represents he reasonably believed that he properly signed and filed 132 of the 171 noticed Certifications of Micro Entity Status because, based on his inquiry, the applications were either (i) filed on behalf of an applicant who has an identical Romanized name as other applicants or (ii) for which an applicant has assigned all ownership rights, or is obligated to assign all ownership rights, as a result of the applicant’s previous employment.

11. Respondent acknowledges that 39 of the 171 noticed Certifications of Micro Entity Status were filed in error with the USPTO. Specifically, Respondent represents that a reasonable inquiry could not be performed prior to presentation of the 39 applications to the USPTO due, in large part, to circumstances with his firm's insufficient docketing system or his inability to corroborate an applicant's identity based on (i) the Romanization of an inventor's name, (ii) his non-native language limitations when communicating with the applicant, or (iii) the applicant's intent to deceive the USPTO unbeknownst to the Respondent or his prior firm.

12. Respondent adopted measures intended to prevent the recurrence of the incorrect certification of Micro Entity Status, including the creation of (i) a master spreadsheet complete with an exemplary figure for each design application, along with identification card information, inventor information, and search keywords; (ii) a modified declaration form, which asks the inventor to sign his or her name in both the applicant's native language and English and list all of the inventor's previous patent applications; (iii) a firm policy of having more meetings and outside presentations regarding conflict checks.

13. Respondent has resigned from his prior firm.

Joint Legal Conclusions

14. Respondent acknowledges that, based on the information contained in the Joint Stipulated Facts, above, that Respondent's acts and omissions violated the following provision of the USPTO Rules of Professional Conduct:

- a. 37 C.F.R. § 11.103 (diligence) by (i) not always conducting a reasonable inquiry under the circumstances pursuant to 37 C.F.R. § 11.18 prior to presenting certifications of micro entity status to the USPTO on behalf of Respondent's clients with the knowledge that the USPTO would rely on such certifications regarding the application filing limit, and (ii) failing to have had in place adequate procedures to ensure that every certification of micro entity status complies with USPTO regulations; and

- b. 37 C.F.R. § 11.804(d) (engaging in conduct that is prejudicial to the administration of justice) by (i) not always conducting a reasonable inquiry under the circumstances pursuant to 37 C.F.R. § 11.18 prior to presenting certifications of micro entity status to the USPTO on behalf of Respondent's clients with the knowledge that the USPTO would rely on such certifications regarding the application filing limit, and (ii) failing to have had in place adequate procedures to ensure that every certification of micro entity status complies with USPTO regulations.

Agreed-Upon Sanction

15. Respondent freely and voluntarily agreed, and it is hereby ORDERED that:
 - a. Respondent shall be and is hereby publicly reprimanded;
 - b. The OED Director shall 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/>;
 - c. The OED Director shall publish a notice in the *Official Gazette* that is materially consistent with the following:

Notice of Reprimand

This notice concerns Raymond Chew of Murrieta, California, who is a registered patent agent (Registration Number 63,989). Mr. Chew is hereby reprimanded for violating 37 C.F.R. §§ 11.103 (failing to act with reasonable diligence in representing a client) and 11.804(d) (engaging in conduct that is prejudicial to the administration of justice). The reprimand is predicated upon Mr. Chew's violations of these provisions of the United States Patent and Trademark Office ("USPTO") Rules of Professional Conduct in connection with the submission of Certifications of Micro Entity Status in applications where the filing limit was exceeded by the applicant. *See* 37 CFR 1.29(a)(2).

The USPTO notified Mr. Chew of numerous apparent errors where the micro entity application filing limit appeared to be exceeded in applications filed by applicants of design patent applications. As the attorney of record for these applications, Mr. Chew signed the respective Certifications of Micro Entity Status certifying that "neither the applicant nor the inventor nor a joint inventor has been named as the inventor or a joint inventor on more than four previously filed U.S. patent applications...." Mr. Chew represents that a reasonable inquiry could not be performed prior to presentation of the applications to USPTO due, in large part, to his firm's insufficient docketing system or his

inability to corroborate an applicant's identity based on (i) the Romanization of an inventor's name, (ii) his non-native language limitations when communicating with the applicant, or (iii) the applicant's intent to deceive the USPTO unbeknownst to Mr. Chew or his firm.

In reaching this settlement, the Office of Enrollment and Discipline ("OED") Director considered the following: (i) Mr. Chew has never been the subject of professional discipline by the USPTO; (ii) Mr. Chew has acknowledged his lapses, demonstrated genuine contrition, and accepted responsibility for his acts and omissions; (iii) Mr. Chew fully cooperated with OED's investigation and provided *sua sponte* informative, supplemental responses to his original responses to requests for information; (iv) Mr. Chew took *sua sponte* corrective action to fully comply with his professional responsibilities, including timely changing the entity status and paying the deficiency fee on all the appropriate applications; and (v) Mr. Chew has adopted measures intended to prevent the recurrence of these violations, including the creation of a master spreadsheet complete with an exemplary figure for each design application, along with identification card information, inventor information, and search keywords, and a modified declaration form that asks the inventor to sign his or her name in both his or her native language and in English and list all of the inventor's previous patent applications.

This action is the result of a settlement agreement between Raymond Chew 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/>;

- d. Nothing in the Proposed Settlement Agreement or the Final Order 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 the same or similar misconduct concerning Respondent brought to the attention of the Office; and (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;
- e. Respondent has agreed to waive 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

- f. The parties shall bear their own costs incurred to date and in carrying out the terms of the Proposed Settlement Agreement and this Final Order.

Users,
Shewchuk,
David

Digitally signed by
Users, Shewchuk, David
Date: 2023.01.20
15:57:18 -05'00'

David Shewchuk
Deputy General Counsel for General Law
U.S. Patent and Trademark Office

Date

on delegated authority by

Katherine K. Vidal
Under Secretary of Commerce for Intellectual Property and
Director of the U.S. Patent and Trademark Office