

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

In the Matter of:	)	
	)	
David Burkenroad,	)	
	)	Proceeding No. D2012-07
Respondent	)	
	)	
_____	)	

**FINAL ORDER**

Pursuant to 37 C.F.R. § 11.27, the Director of the United States Patent and Trademark Office (“USPTO” or “Office”) received for review and approval from the USPTO’s Deputy General Counsel for Enrollment and Discipline and Director of the Office of Enrollment and Discipline (“OED Director”) an Affidavit of Resignation Pursuant to 37 C.F.R. § 11.27 executed by David Burkenroad (“Respondent”). Respondent is an attorney formerly admitted to practice law in California, who has represented trademark applicants before the USPTO. 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 dated November 23, 2011, shall be approved, and Respondent shall be excluded on consent from the practice of trademark and other non-patent law before the Office effective on the date of this Final Order.<sup>1</sup>

**Jurisdiction**

Respondent is not a registered patent practitioner. However, Respondent, at all relevant times, was an attorney admitted to practice law in California, who has represented trademark applicants before the USPTO. Respondent is subject to the USPTO Code of Professional Responsibility and Disciplinary Rules. *See* 37 C.F.R. § 11.19(a). Accordingly, pursuant to 35 U.S.C. §§ 2(b)(2)(D)

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<sup>1</sup> Respondent is not registered to practice before the Office. Therefore, he is not authorized to practice in patent matters before the Office. See 37 C.F.R. § 11.5.

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 on consent from the practice of trademark and other non-patent law before the Office.

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

Respondent acknowledges in his Resignation Affidavit that:

1. His consent is freely and voluntarily rendered, and he is not being subjected to coercion or duress.

2. He is aware that there is a pending USPTO investigation of his alleged misconduct comprised of the following allegation: he was disbarred on ethical grounds by the State Bar of California from the practice of law in California, effective April 23, 2011, and his current status in California is disbarred.

3. He is aware that the OED Director is of the opinion that his conduct violated the following Disciplinary Rules of Professional Conduct as outlined in Section 10 of Title 37, Code of Federal Regulations: 37 C.F.R. §§ 10.23(a) and (b) via 37 C.F.R. § 10.23(c)(5) by being disbarred from practice as an attorney on ethical grounds by a duly constituted authority of a state.

4. Without admitting to violating any of the Disciplinary Rules of the USPTO Code of Professional Responsibility set forth in the letter of investigation dated June 17, 2011, 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 limited purpose of making a determination concerning the application for reinstatement, that (i) the allegations set forth in the investigation concerning Respondent are true and (ii) he could not have successfully defended himself against such allegations.

5. He has fully read and understands 37 C.F.R. §§ 11.27, 11.58, 11.59, and 11.60, and is fully

aware of the implications of consenting to exclusion from practice before the USPTO in trademark and other non-patent matters.

6. He consents to being excluded from practice before the USPTO in 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:

1. Respondent's Affidavit is approved;
2. Respondent is excluded on consent from the practice of trademark and other non-patent law before the Office beginning on the date this Final Order is signed;
3. The OED Director shall publish this Final Order at the Office of Enrollment and Discipline's Reading Room found at: <http://des.uspto.gov/Foia/OEDReadingRoom.jsp>;
4. The OED Director shall publish the following notice in the *Official Gazette*:

### **Notice of Exclusion on Consent**

This notice concerns David Burkenroad, of Los Angeles, California, an attorney admitted to practice law in California, who is not registered to practice before the United States Patent and Trademark Office ("USPTO" or "Office") in patent matters. Pursuant to 37 C.F.R. § 11.27(b), the USPTO Director has accepted Mr. Burkenroad's affidavit of resignation, prepared pursuant to 37 C.F.R. § 11.27(a), and ordered his exclusion on consent from the practice of trademark and other non-patent law before Office. Mr. Burkenroad is not registered to practice in patent matters before the Office. See 37 C.F.R. § 11.5.

Mr. Burkenroad voluntarily submitted his affidavit at a time when he was subject to a disciplinary investigation pursuant to 37 C.F.R. § 11.22(a). Mr. Burkenroad acknowledged that the Deputy General Counsel for Enrollment and Discipline and Director of the USPTO's Office of Enrollment and Discipline ("OED Director") was of the opinion that his conduct violated 37 C.F.R. §§ 10.23(a) and (b) via 37 C.F.R. § 10.23(c)(5) by being disbarred on ethical grounds by the State Bar of California from the practice of law in California, effective April 23, 2011. While Mr.

Burkenroad did not admit to violating any of the Disciplinary Rules of the USPTO Code of Professional Responsibility referenced in a letter of investigation, he acknowledged that, if and when he applies for reinstatement, the OED Director will conclusively presume, for the limited purpose of determining the application for reinstatement, that (i) the allegations set forth in the disciplinary complaint are true and (ii) Mr. Burkenroad 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 located at:  
<http://des.uspto.gov/Foia/OEDReadingRoom.jsp>.

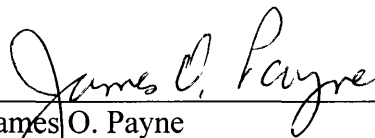
5. Respondent shall comply fully with 37 C.F.R. § 11.58;

6. The OED Director, in accordance with 37 C.F.R. § 11.59, shall give notice of the public discipline and the reasons for the discipline to disciplinary enforcement agencies in the State where the practitioner is admitted or was formerly admitted to practice, to courts where the practitioner is known to be admitted, and the public;

7. Respondent shall comply fully with 37 C.F.R. § 11.60 upon any request for reinstatement;  
and

8. The OED Director and Respondent shall bear their own costs incurred to date and in carrying out the terms of this agreement.

FEB 14 2012  
Date

  
James O. Payne  
Deputy General Counsel for General Law  
United States Patent and Trademark Office

on behalf of

David M. Kappos  
Under Secretary of Commerce for Intellectual Property and  
Director of the United States Patent and Trademark Office

cc:

Director of Enrollment and Discipline  
United States Patent and Trademark Office

David Burkenroad  
3322 Mentone Ave. Apt. 12  
Los Angeles, CA 90034-4667

**Notice of Exclusion on Consent**

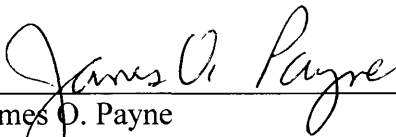
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FEB 14 2012

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Date

  
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James O. Payne  
Deputy General Counsel for General Law  
United States Patent and Trademark Office

on behalf of

David Kappos  
Under Secretary of Commerce For Intellectual  
Property and Director of the United States Patent  
and Trademark Office