

**UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE ADMINISTRATIVE LAW JUDGE**

In the Matter of:

Richard Chae

Respondent.

Proceeding No. D2013-01

October 21, 2013

**INITIAL DECISION ON DEFAULT JUDGEMENT**

The above-entitled matter is before this Court on a *Motion for Entry of Default Judgment and Imposition of Disciplinary Sanction* (“Default Motion”), filed on July 10, 2013, by the U.S. Patent and Trademark Office (“USPTO” or “Government”). Respondent Richard Chae (“Respondent”) failed to file a timely answer to the USPTO’s initial *Complaint*, and has not responded to an *Order to Show Cause* issued by this Court on July 25, 2013. This Court is authorized to hear this proceeding and to issue this *Initial Decision* pursuant to 37 C.F.R. §§ 11.19 and 11.39.<sup>1</sup>

USPTO regulations state that such a failure to respond constitutes an admission of all allegations and “may result in entry of default judgment.” 37 C.F.R. § 11.36(e). As Respondent has not filed any response, the *Default Motion* is **GRANTED**.

**PROCEDURAL HISTORY**

On October 22, 2012, the Director of the USPTO’s Office of Enrollment and Discipline filed a *Disciplinary Complaint Under 35 U.S.C. § 32 and 37 C.F.R. § 11.25* (“Complaint”) against Respondent. Attempts to serve Respondent with the *Complaint* by mail failed, as the copies sent via U.S. certified mail to Respondent’s two known addresses were both returned as “unclaimed.” The USPTO thereafter notified Respondent by publishing a notice in two consecutive issues of the USPTO *Official Gazette*, as permitted by 37 C.F.R. § 11.35(b). Publication of the notices occurred on April 9, 2013, and April 16, 2013. Accordingly, Respondent was properly served with the *Complaint* as of April 16, 2013.

On June 3, 2013, the USPTO Director issued a Final Order directing Respondent to file a written answer to the *Complaint* within thirty days from the date of the Final Order. Respondent was therefore required to respond on or before July 3, 2013. On June 27, 2013, USPTO Counsel mailed a letter to Respondent reminding Respondent of the July 3rd deadline, and informing him

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<sup>1</sup> Pursuant to an Interagency Agreement in effect beginning March 27, 2013, Administrative Law Judges of the U.S. Department of Housing and Urban Development are authorized to hear cases for the U.S. Patent and Trademark Office.

that a response had not yet been received. Respondent failed to file an Answer or otherwise respond by July 3, 2013.

On July 25, 2013, the Court issued an *Order to Show Cause* to Respondent, instructing him to file a reply on or before August 1, 2013 or risk a default judgment. Respondent failed to comply with the *Order to Show Cause*.

### **DEFAULT**

Part 11.36 of Title 37 of the Code of Federal Regulations states that “[f]ailure to timely file an answer will constitute an admission of the allegations in the complaint and may result in a default judgment.” 37 C.F.R. § 11.36(e). Respondent has failed to timely submit an answer after being properly served with the *Complaint*. Accordingly, Respondent is deemed to have admitted each of the factual allegations recounted below.

### **FINDINGS OF FACT**

1. Respondent is a registered patent attorney, with Registration No. 51,539.
2. Respondent is a member of the California State Bar, but is currently ineligible to practice law due to disciplinary charges.
3. On or about February 26, 2010, Respondent was arrested by a Colma Police Department officer for driving under the influence of alcohol in San Mateo, California.
4. On or about February 26, 2010, Respondent was arrested for attempting to bribe the police officer.
5. On June 14, 2010, the State of California charged Respondent with violating § 67 of the California Penal Code for giving or offering a bribe to a police officer.
6. Respondent was convicted of the charge, a felony, on June 28, 2010.

### **CONCLUSIONS OF LAW**

1. Regulation 37 C.F.R. § 10.23(a) states that a practitioner shall not “[E]ngage in disreputable or gross misconduct.”
2. Respondent violated 37 C.F.R. § 10.23(a) because attempting to bribe a police officer is disreputable.
3. Regulation 37 C.F.R. § 10.23(b)(3) states that a practitioner shall not “[E]ngage in illegal conduct involving moral turpitude.”
4. USPTO regulations state that bribery is an act of moral turpitude.

5. Respondent violated 37 C.F.R. § 10.23(b)(3) by attempting to bribe a police officer, which is an act of moral turpitude.
6. Regulation 37 C.F.R. § 10.23(b)(5) states that a practitioner shall not “[E]ngage in conduct that is prejudicial to the administration of justice.
7. Respondent violated 37 C.F.R. § 10.23(b)(5) by attempting to avoid arrest for driving under the influence of alcohol.
8. Regulation 37 C.F.R. § 10.23(b)(6) states that a practitioner shall not “[E]ngage in any other conduct that adversely reflects on the practitioner’s fitness to practice before the Office.”
9. Respondent violated 37 C.F.R. § 10.23(b)(6) by attempting to bribe a police officer.
10. Pursuant to 37 C.F.R. § 10.23(c)(1), conduct that constitutes violations of 37 C.F.R. §§ 10.23(a) and (b) include “conviction of a criminal offense involving moral turpitude, dishonesty, or breach of trust.”
11. Respondent violated 37 C.F.R. §§ 10.23(a) and (b) by being convicted of attempting to bribe a police officer, which is a criminal offense involving moral turpitude.

## **SANCTIONS**

The OED Director requests that the Court sanction Respondent by excluding him from practice before the USPTO in patent, trademark, or other non-patent cases or matters. The Court must consider four factors, if applicable, before issuing such a sanction. 37 C.F.R. § 11.54(b).

1. Did the practitioner violate a duty owed to a client, to the public, to the legal system, or to the profession?

Yes. Respondent’s attempt to bribe a police officer was an illegal act, thus violating his duty to uphold the legal system and undermining the administration of justice. His actions tarnish the image of the legal profession. This factor supports a maximum sanction.

2. Did the practitioner act intentionally, knowingly, or negligently?

Yes. Respondent has offered no explanation for his actions, and has not participated in the instant proceeding in any way. He has therefore waived the opportunity to contest the USPTO’s assertions as to his state of mind. Respondent’s actions and inactions were deliberate. He knowingly offered a bribe to a police officer in an attempt to avoid arrest. This factor supports a maximum sanction.

3. What amount of actual or potential injury was caused by the practitioner's misconduct?

Respondent's actions were meant to thwart the administration of justice, and so undermine the criminal justice system. This constitutes a substantial potential injury. Accordingly, this factor also supports a maximum sanction.

4. Are there any aggravating or mitigating factors?

The American Bar Association Standards for Imposing Lawyer Sanctions state that illegal conduct is an aggravating factor. Respondent knowingly and deliberately engaged in such conduct. Moreover, the specific conduct here — attempted bribery — is an act of moral turpitude that threatens to adversely color the entire legal profession.

Additionally, Respondent's total lack of participation in the instant case confirms his disinterest in accepting responsibility for his actions. He did not respond to the *Complaint* or to the *Order to Show Cause*, nor did he engage in any communication attempts with the USPTO. This further reflects his lack of fitness to practice before the USPTO.

**ORDER**

On the basis of Respondent's deemed admissions, and after an analysis of all four enumerated factors, this Court concludes that Respondent's misconduct warrants the penalty of exclusion. Accordingly, the *Default Motion* is **GRANTED**.

**IT IS HEREBY ORDERED** that Respondent Richard Chae, PTO Registration No. 51,539, be **EXCLUDED** from practice before the U.S. Patent and Trademark Office.

So **ORDERED**.



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Alexander Fernández  
Administrative Law Judge