

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

In the Matter of)	
)	
Cynthia R. Wright,)	Proceeding No. D2019-14
)	
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 Cynthia R. Wright (“Respondent”) have submitted a Proposed Settlement 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, save where reserved in paragraph 5 of the Agreement, 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. At all times relevant, Respondent, of Huntsville, Alabama, has been a registered patent attorney (Registration Number 72,896) who is 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.

STIPULATED FACTS

3. The USPTO registered Respondent as a patent attorney on September 2, 2014, (Registration No. 72,896).
4. Respondent was admitted to practice law in Alabama on September 27, 1996, and is currently an active member and good standing.
5. Respondent was admitted to practice law in the District of Columbia on July 2, 1993, and is currently an inactive member in good standing.
6. Respondent is a solo practitioner practicing in Huntsville, Alabama. Her practice, listed in the order of the time expended, involves bankruptcy law, divorce law, patent law, probate law, social security disability law, and tax law.
7. Respondent represented Mr. [REDACTED] in filing a provisional patent application for a [REDACTED] beginning no later than June 14, 2016.
8. Respondent represented Mr. [REDACTED] without a written representation agreement. Respondent charged Mr. [REDACTED] a flat fee for her services.
9. On June 15, 2016, Mr. [REDACTED] paid Respondent \$1,600.00 to file a provisional application.
10. Respondent prepared Provisional U.S. Patent Application No. [REDACTED] (“the [REDACTED] application”), titled “[REDACTED],” and filed it with the USPTO on [REDACTED]. Respondent listed Mr. [REDACTED] as the sole inventor in the [REDACTED] application.
11. On July 5, 2016, Respondent met with Mr. [REDACTED] in her office. On that date, Mr. [REDACTED] paid Respondent to prepare and file documents to incorporate a Limited Liability corporation.

12. On or around July 26, 2016, Respondent incorporated [REDACTED], an Alabama Domestic Limited Liability Company ([REDACTED] at the direction and for the benefit of Mr. [REDACTED].

13. On or about May 4, 2017, Respondent received payment from Mr. [REDACTED] in the amount of \$3,000.00.

14. Between May 4, 2017, and November 1, 2017, Respondent, Mr. [REDACTED] and corporate officers of [REDACTED] communicated amongst themselves in a way that led Mr. [REDACTED] and the corporate officers of [REDACTED] to reasonably believe that Respondent was acting within an attorney-client relationship during this time.

15. At a minimum, between May 4, 2017, and November 1, 2017, Mr. [REDACTED] had a reasonable belief that Respondent represented him and/or [REDACTED] for legal matters relating to his provisional patent application. This belief was reinforced by communication between Mr. [REDACTED] and Respondent, and between [REDACTED] corporate officers and Respondent, in which Respondent discussed the amount of her fees for filing a patent application.

16. Respondent discussed with Mr. [REDACTED] and [REDACTED] corporate officers that she wanted to be listed as a joint inventor if she in fact was an inventor on a [REDACTED]. On September 8, 2017, Respondent emailed the client and informed him that she would begin working on a patent application for the [REDACTED]. At that time, Respondent requested payment from [REDACTED] corporate officers for the expected filing fees on the patent application and sought information for how “everyone” would be paid for their time on the application.

17. The client responded by asking for an estimate of the filing fees and my current costs for working on the matter. In response, Respondent stated that she was unsure of the filing fees.

18. On September 27, 2017, Respondent sent Mr. [REDACTED] a draft of the provisional patent application for the [REDACTED]. The draft patent application included [REDACTED]
[REDACTED]
[REDACTED].

19. The draft of the patent application named Respondent as a co-inventor.

20. On [REDACTED], without Mr. [REDACTED] or [REDACTED] knowledge or consent, Respondent filed Provisional U.S. Patent Application No. [REDACTED] (“the [REDACTED] application”), titled “[REDACTED].” The [REDACTED] application named Respondent and Mr. [REDACTED] as joint inventors.

21. On November 1, 2017, an attorney representing Mr. [REDACTED] and [REDACTED] sent a letter to Respondent explicitly terminating any attorney-client relationship between Respondent and Mr. [REDACTED] and any attorney-client relationship between Respondent and [REDACTED]. Respondent has asserted that the representation ceased at various points prior to November 1, 2017.

JOINT LEGAL CONCLUSIONS

22. Respondent acknowledges that, based on the information contained in the Stipulated Facts, above, Respondent’s acts and omissions violated the following provisions of the USPTO Rules of Professional Conduct:

- a. 37 C.F.R. § 11.102(a), by failing to abide by a client’s decisions concerning the objectives of the representation, by filing the [REDACTED] application without the knowledge or consent of Mr. [REDACTED] or [REDACTED]
- b. 37 C.F.R. § 11.104(a)(2), by failing to reasonably consult with clients about the means by which the clients’ objectives are to be accomplished by failing to adequately consult with Mr. [REDACTED] and/or [REDACTED] prior to the filing of the [REDACTED] provisional application;

- c. 37 C.F.R. § 11.105(b), by failing to adequately communicate the scope of the representation to Mr. [REDACTED] or [REDACTED]
- d. 37 C.F.R. § 11.108(a), by knowingly acquiring an interest adverse to her client by naming herself as a co-inventor in the [REDACTED] provisional application without obtaining informed consent from her client; and
- e. 37 C.F.R. § 11.116, by failing to give proper notice of the termination of an attorney-client relationship, where Respondent asserts that the representation ceased at various points prior to November 1, 2017, and the clients had reasonable belief that the attorney-client relationship continued, and no notice of termination was given to the client.

ADDITIONAL CONSIDERATIONS

- 23. Respondent has no disciplinary history.
- 24. Respondent has refunded to Mr. [REDACTED] the money that she had received in May 2017.
- 25. Respondent now understands that preparing a patent application in which another party is named as an inventor constitutes practice before the Office, and such practice creates obligations on her part under the USPTO Rules of Professional Conduct.

AGREED UPON SANCTION

- 26. Respondent freely and voluntarily agrees, and it is hereby ORDERED that:
 - a. Respondent shall be, and hereby is, publicly reprimanded;
 - b. Respondent shall serve a twenty-four month probationary period commencing on the date of this Final Order;
 - c. Within twelve (12) months of the date of the Final Order, Respondent shall (i) take and complete at least eight hours of Continuing Legal Education courses, in which the primary subject is general legal ethics, legal ethics as it relates to patent practitioners, usage of written fee agreements, or law office management, (ii) file an affidavit with the OED Director attesting to her taking and completing such Continuing Legal Education Courses, and (iii) provide documentation corroborating her taking and completing of such Continuing Legal Education Courses along with the aforementioned affidavit;

- d. (1) In the event the OED Director is of the opinion that Respondent, during the probationary period, failed to comply with any provision of the Agreement, the Final Order, or any disciplinary rule of the USPTO Rules of Professional Conduct, the OED Director may:
- (A) issue to Respondent an Order to Show Cause why the USPTO Director should not order that Respondent be immediately suspended for up to one year 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; and
 - (C) grant Respondent fifteen days to respond to the Order to Show Cause; and
- (2) In the event that after the fifteen day period for response and after the consideration of the response, if any, received from Respondent, the OED Director continues to be of the opinion that Respondent, during the probationary period, failed to comply with any provision of the Agreement, the Final Order, or any disciplinary rule of the USPTO Rules of Professional Conduct, the OED Director shall:
- (A) deliver to the USPTO Director or his designee: (i) the Order to Show Cause; (ii) Respondent's response to the Order to Show Cause, if any; and (iii) argument and evidence causing the OED Director to be of the opinion that Respondent failed to comply with any provision of the Agreement, the Final Order, or any disciplinary rule of the USPTO Rules of Professional Conduct during the probationary period, and
 - (B) request that the USPTO Director immediately suspend Respondent for up to one year for the violations set forth in the Joint Legal Conclusions, above;
- e. In the event the USPTO Director suspends Respondent pursuant to subparagraph d, above, and Respondent seeks a review of the suspension, any such review of the suspension shall not operate to postpone or otherwise hold in abeyance the suspension;
- f. The OED Director electronically publish the Final Order at OED's electronic FOIA Reading Room, which is publicly accessible at: <https://foiadocuments.uspto.gov/oed/>;
- g. The OED Director publish a notice in the *Official Gazette* that is materially consistent with the following:

Notice of Public Reprimand and Probation

This notice concerns Dr. Cynthia R. Wright, a registered patent attorney (Registration Number 72,896), of Huntsville, Alabama. The United States Patent and Trademark Office ("USPTO" or "Office") has publicly reprimanded Dr. Wright, and placed her on probation for a period of two years. As a condition of her probation, Dr. Wright must verify that she has taken eight hours of Continuing Legal Education courses in which the primary subject is general legal ethics, legal ethics as it relates to patent practitioners, usage of written fee agreements, or law office management. Dr. Wright is permitted to practice before the Office matters during her probationary period unless she is subsequently suspended by order of the USPTO Director.

Dr. Wright represented an inventor in relation to a cantilever test sensor and method. At the inventor's direction and for his benefit, Dr. Wright filed Provisional U.S. Patent Application No. [REDACTED] for the invention with the USPTO on [REDACTED], naming the inventor as the sole inventor. On the same date, Dr. Wright agreed to incorporate a business entity for the inventor, [REDACTED]. Dr. Wright filed articles of incorporation for that business entity on July 26, 2016.

On or about May 4, 2017, Respondent received payment from Mr. [REDACTED] in the amount of \$3000.00. Between May 4, 2017 and November 1, 2017, Respondent, Mr. [REDACTED] and [REDACTED] corporate officers formed on Mr. [REDACTED] behalf communicated in a way that would lead to the reasonable belief, on the part of Mr. [REDACTED] and the corporate officers that Respondent was acting as an attorney for Mr. [REDACTED] and/or the business entity.

On [REDACTED], without Mr. [REDACTED] or [REDACTED] knowledge or consent, Respondent filed Provisional U.S. Patent Application No. [REDACTED], titled "[REDACTED] [REDACTED]." The [REDACTED] application named Respondent and Mr. [REDACTED] as joint inventors. On November 1, 2017, an attorney representing Mr. [REDACTED] and [REDACTED] sent a letter to Respondent, explicitly terminating any attorney-client relationship between Respondent and Mr. [REDACTED] or [REDACTED].

Dr. Wright's conduct after May 3, 2013, violated the following USPTO Rules of Professional Conduct: 37 C.F.R. § 11.102(a), by failing to abide by a client's decisions concerning the objectives of the representation, by filing the [REDACTED] application without the knowledge or consent of Mr. [REDACTED] or [REDACTED] 37 C.F.R. §

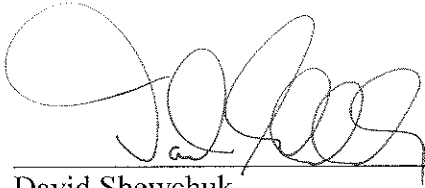
11.104(a)(2), by failing to reasonably consult with clients about the means by which the clients' objectives are to be accomplished by failing to adequately consult with Mr. [REDACTED] and/or [REDACTED] prior to the filing of the [REDACTED] application; 37 C.F.R. § 11.105(b), by failing to adequately communicate the scope of the representation to Mr. [REDACTED] or [REDACTED] 37 C.F.R. § 11.108(a), by knowingly acquiring an interest adverse to her client by naming herself as a co-inventor in the [REDACTED] provisional application without obtaining informed consent from her client; and 37 C.F.R. § 11.116, by failing to give proper notice of the termination of an attorney-client relationship, where Respondent asserts that the representation ceased at various points, the clients had reasonable belief that the attorney-client relationship continued, and no notice of termination was given to the client.

This action is the result of a settlement agreement between Dr. Wright 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/>;

- h. Nothing in this 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; (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;
- 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 parties shall bear their own costs incurred to date and in carrying out the terms of this Agreement and any Final Order.

(signature page follows)

(signature page for Final Order Pursuant To 37 C.F.R. § 11.26, Wright (D2019-14))



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

2 Aug 2019

Date

on delegation by

Andrei Iancu
Under Secretary of Commerce for Intellectual Property
Director of the U.S. Patent and Trademark Office