

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

In the Matter of)
)
Deborah S. Sweeney,)
)
Respondent) Proceeding No. D2019-33
)
_____)

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 Deborah S. Sweeney (“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 sanctions found in the Agreement.

Jurisdiction

1. At all times relevant hereto, Respondent of Calabasas, California, has been an attorney in good standing in the State of California and, as such, is authorized to practice before the USPTO in trademark matters, *see* 37 C.F.R. § 11.14(a). Respondent is subject to the USPTO Rules of Professional Conduct, 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.

Legal Background

USPTO Trademark Electronic Signature Requirements

3. USPTO regulations require that the person named as the signatory on an electronic trademark document to be filed with the Office must personally enter his or her electronic signature on the document (*i.e.*, personally enter the combination of letters, numbers, spaces and/or punctuation marks that he or she has adopted as a signature, placed between two forward slash (“/”) symbols in the signature block on the electronic submission). *See* 37 C.F.R. § 2.193(a)(2), (c), and (e).
4. The USPTO Trademark Manual of Examining Procedure (“TMEP”) provides guidance to practitioners regarding the USPTO trademark electronic signature regulations:

All documents must be personally signed. 37 C.F.R. §§ 2.193(a)(1), (c)(1), 11.18(a).

The person(s) identified as the signatory must manually enter the elements of the electronic signature.

Another person (e.g., paralegal, legal assistant, or secretary) may not sign the name of a qualified practitioner or other authorized signatory.

Just as signing the name of another person on paper does not serve as the signature of the person whose name is written, typing the electronic signature of another person is not a valid signature by that person.

TMEP § 611.01(c) (internal citations omitted) (line spacing added).

USPTO Trademark Verified Statement Requirement

5. USPTO regulations require that each trademark application must include a verified statement. 37 C.F.R. § 2.33(a). The verified statement, depending on the type of trademark application, must contain the language provided by USPTO regulations. *See* 37 C.F.R. § 2.33(b), (c), (e), and (f).
6. USPTO regulations require that, in an application under section 1(a) of the Trademark Act of 1946, 60 Stat. 427, as amended, codified in 15 U.S.C. 1051 et seq. (“the Trademark Act”), the verified statement must allege:

That the applicant believes the applicant is the owner of the mark; that the mark is in use in commerce; that to the best of the signatory's knowledge and belief, no other person has the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when applied to the goods or services of such other person, to cause confusion or mistake, or to deceive; that the specimen shows the mark as used on or in connection with the goods or services; and that the facts set forth in the application are true.

37 C.F.R. § 2.33(b)(1).

7. USPTO regulations require that, in an application under section 1(b) or 44 of the Trademark Act, the verified statement must allege:

That the applicant has a bona fide intention to use the mark in commerce; that the applicant believes the applicant is entitled to

use the mark in commerce on or in connection with the goods or services specified in the application; that to the best of the signatory's knowledge and belief, no other person has the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when applied to the goods or services of such other person, to cause confusion or mistake, or to deceive; and that the facts set forth in the application are true.

37 C.F.R. § 2.33(b)(2).

8. A verified statement, as defined by USPTO regulations, is a statement that is:
 - a. sworn to, made under oath or in an affidavit, or supported by a declaration under 37 C.F.R. § 2.20 or 28 U.S.C. § 1746; and
 - b. signed in accordance with the requirements of 37 C.F.R. § 2.193.

37 C.F.R. § 2.2(n); *see* TMEP § 611.03(a). The signature requirements under 37 C.F.R. § 2.193 include that a verified statement must be personally signed, as discussed above.

9. Verified statements in trademark applications that are submitted using the application provided via the USPTO's Trademark Application Electronic System ("TEAS") are to be supported by a declaration under 37 C.F.R. § 2.20 and are to be signed pursuant to 37 C.F.R. § 2.193(a)(2), (c), (d), and (e)(1). In a trademark application prepared through TEAS, the signatory signs the trademark application, the verified statement in the trademark application, and the declaration in support of the verified statement in the trademark application.

Joint Stipulated Facts

10. At all times relevant to this matter, Respondent has been an attorney licensed in the State of California, engaged in practice before the Office as set forth below, and subject to the provisions of the USPTO Rules of Professional Conduct.
11. At all times relevant to this matter, Respondent was president and owner of MyCorporation Business Services, Inc. ("MyCorporation").
12. At all times relevant to this matter, Respondent caused trademark applications to be prepared, signed, and filed with the USPTO through an electronic workflow operated through MyCorporation's website. Generally speaking, MyCorporation customers (*i.e.*, trademark applicants) submitted information to MyCorporation through its website. Then, MyCorporation's workflow programmatically and automatically filled in the various TEAS online fields comprising a USPTO electronic trademark application. The trademark applicants did not personally sign their trademark applications. Instead, MyCorporation's workflow entered the characters comprising the applicants' signatures into the USPTO

trademark applications contrary to the USPTO trademark signature regulations and guidance referenced above. Applicants were not presented with the text of the declaration supporting the verified statement when submitting information to MyCorporation through its website, nor did they see their completed USPTO trademark applications—including the declarations supporting the verified statements—prior to their trademark applications being filed with the USPTO.

13. MyCorporation filed more than three hundred and sixty (360) applications bearing impermissible signatures since January 1, 2013.
14. Respondent represents that, at all times relevant to this matter, she did not understand adequately the USPTO trademark signature regulations and guidance referenced above. Upon being notified by OED of the USPTO electronic signature rules and guidance referenced above, Respondent changed MyCorporation's workflow, including specific steps regarding its signature procedure, to ensure compliance with such rules and guidance.
15. Respondent represents that (a) informed each affected MyCorporation customer (*i.e.*, each customer with a registration, a pending application, or a recently abandoned application) that such customer's electronic signature did not meet USPTO electronic signature rules; (b) provided a hyperlink to TMEP § 611.01(c) to each affected customer; and (c) alerted each affected customer that there may be adverse consequences to their applications or issued trademarks, such as cancellation, termination, or invalidation in the absence of a proper signature.

Additional Considerations

16. In the twenty years that Respondent has been licensed as an attorney, Respondent has not seen publicly disciplined by any state, territorial bar, state or federal court, or state or federal agency (including the USPTO).
17. Respondent represents that she did not have a dishonest or selfish motive in the manner in which she caused trademark applications to be prepared, signed, and filed with the USPTO through the electronic workflow operated through MyCorporation's website.
18. Respondent has acknowledged her ethical lapses, demonstrated contrition, and accepted responsibility for her acts and omissions. She understands the seriousness and importance of the USPTO electronic signature rules and, where violated, the actual or potential significant adverse consequences that such impermissibly signed trademark filings may have had applicants' intellectual property rights in their pending trademark applications or issued (or renewed) registrations.
19. Respondent fully cooperated with OED's investigation, e.g., by (a) participating in a telephonic interview where she explained candidly and in detail how MyCorporation's website and the MyCorporation workflow operated and (b) providing timely, accurate, and fully responsive answers to OED's written requests for information.

Joint Legal Conclusions

20. Respondent acknowledges that, based on the information contained in the joint stipulated facts, her conduct violated the following provisions of the USPTO Rules of Professional Conduct:
- a. 37 C.F.R. § 11.101 (competence) by not understanding adequately the USPTO trademark signature requirements of 37 C.F.R. § 2.193; the guidance set forth in TMEP § 611.01(c); and the USPTO trademark verified statement requirements of 37 C.F.R. §§ 2.2(n), 2.33(a), 2.33(b), and 2.193; and
 - b. 37 C.F.R. § 11.303(a)(1), (a)(3), (b), and (d) (candor toward the USPTO); 37 C.F.R. § 11.804(c) (misrepresentation) and (d) (conduct prejudicial to the administration of justice); and 11.804(i) (other conduct that adversely reflects on the practitioner's fitness to practice before the Office) by, *inter alia*, causing trademark applications to be prepared, signed, and filed with the USPTO through the MyCorporation workflow that did not comply with the USPTO trademark electronic signature rules and guidance.

Agreed-Upon Sanction

21. Respondent freely and voluntarily agrees, and it is hereby ORDERED that:
- a. Respondent be, and hereby is, 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: <http://e-foia.uspto.gov/Foia/OEDReadingRoom.jsp>;
 - c. The OED Director shall publish a notice in the Official Gazette that is materially consistent with the following:

Notice of Public Reprimand

This notice concerns non-registered trademark practitioner Deborah S. Sweeney of Calabasas, California, who is hereby publicly reprimanded for violating 37 C.F.R. §§ 11.101; 11.303(a)(1), (a)(3), (b) and (d); 11.804(c); 11.804(d); and 11.804(i).

At all times relevant to this matter, Ms. Sweeney was president and owner of MyCorporation Business Services, Inc. ("MyCorporation"). Ms. Sweeney caused trademark applications to be prepared, signed, and filed with the USPTO through an electronic workflow operated through MyCorporation's website. Generally speaking, MyCorporation customers (*i.e.*, trademark applicants) submitted information to MyCorporation through its website. Then, MyCorporation's workflow programmatically and

automatically filled in the various TEAS online fields comprising a USPTO electronic trademark application. The trademark applicants did not personally sign their trademark applications. Instead, MyCorporation's workflow entered the characters comprising the applicants' signatures into the USPTO trademark applications. Applicants were not presented with the text of the declaration supporting the verified statement when submitting information to MyCorporation through its website, nor did they see their completed USPTO trademark applications—including the declarations supporting the verified statements—prior to their trademark applications being filed with the USPTO. MyCorporation's workflow did not comply with USPTO trademark signature requirements of 37 C.F.R. § 2.193; the USPTO trademark verified statement requirements of 37 C.F.R. §§ 2.2(n), 2.33(a), 2.33(b), and 2.193; or the guidance set forth in Trademark Manual of Examining Procedure § 611.01(c).

Ms. Sweeney acknowledged her ethical lapses, demonstrated genuine contrition, and accepted responsibility for her acts and omissions. She understands the seriousness and importance of the USPTO electronic signature rules and, where violated, the actual or potential significant adverse consequences that such impermissibly signed trademark filings may have had applicants' intellectual property rights in their pending trademark applications or issued (or renewed) registrations.

Ms. Sweeney has not been subject to prior discipline. She represented that she did not have a dishonest or selfish motive. She also represented that she (a) informed each affected MyCorporation customer (*i.e.*, each customer with a registration, a pending application, or a recently abandoned application) that such customer's electronic signature did not meet USPTO electronic signature rules; (b) provided a hyperlink to TMEP § 611.01(c) to each affected customer; and (c) alerted each affected customer that there may be adverse consequences to their applications or issued trademarks, such as cancellation, termination, or invalidation in the absence of a proper signature.

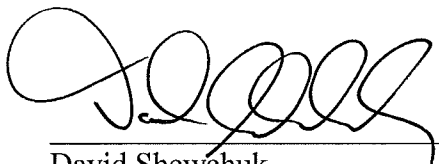
Ms. Sweeney fully cooperated with OED's investigation, *e.g.*, by participating in a telephonic interview where she explained candidly and in detail how MyCorporation's website and the MyCorporation workflow operated and by providing timely, accurate, and fully responsive answers to OED's written requests for information.

Trademark practitioners are reasonably expected to know and understand that trademark filings bearing verified statements supported by declarations are relied upon by the USPTO when examining trademark applications, registering marks, and renewing issued registrations. Where trademark applications and other trademark documents are signed and filed with the USPTO contrary to USPTO electronic signature requirements, the integrity of the federal trademark registration process is adversely affected.

This action is the result of a settlement agreement between Ms. Sweeney 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: <http://e-foia.uspto.gov/Foia/OEDReadingRoom.jsp>.

- d. Nothing 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 agreed and has waived all rights to seek reconsideration of the Final Order under 37 C.F.R. § 11.56, to have the Final Order reviewed under 37 C.F.R. § 11.57, and otherwise to appeal or challenge the Final Order in any manner; and
- f. Each party shall each bear their own costs incurred to date and in carrying out the terms of the Agreement and this Final Order.



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

19 June 2019

Date

on delegated authority by

Andrei Iancu
Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office

cc: Director of the Office of Enrollment and Discipline

Deborah Sweeney
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