

UNITED STATES PATENT AND TRADEMARK OFFICE

In the Matter of: )  
 )  
Michael Anietie Essien, ) Proceeding No. D2022-17  
 )  
Respondent )  
\_\_\_\_\_ )

FINAL ORDER PURSUANT TO 37 C.F.R. § 11.24

Pursuant to 37 C.F.R. § 11.24, Michael Anietie Essien (“Respondent”) is hereby suspended from the practice of patent, trademark and other non-patent law before the United States Patent and Trademark Office (“USPTO” or “Office”), for violation of 37 C.F.R. § 11.804(h).

**Background**

On July 20, 2022, a “Notice and Order Pursuant to 37 C.F.R. § 11.24” (“Notice and Order”) was sent by certified mail (receipt no. 70220410000250012680) notifying Respondent that the Director of the Office of Enrollment and Discipline (“OED Director”) had filed a “Complaint for Reciprocal Discipline Pursuant to 37 C.F.R. § 11.24” (“Complaint”) requesting that the Director of the United States Patent and Trademark Office impose reciprocal discipline upon Respondent identical to the discipline imposed by the July 15, 2021 Order of the Minnesota State Supreme Court in *In re Petition for Disciplinary Action against Michael Anietie Essien*, 961 N.W.2d 778 (Minn. 2021), Case No. A21-0018, suspending Respondent from the practice of law in that jurisdiction with no right to petition for reinstatement for eighteen (18) months. The Notice and Order provided Respondent an opportunity to file, within forty (40) days, a response opposing the imposition of reciprocal discipline identical to that imposed by July 15, 2021 Order of the Minnesota State Supreme Court in *In re Petition for Disciplinary Action against Michael*

*Anietie Essien*, 961 N.W.2d 778 (Minn. 2021), Case No. A21-0018, based on one or more of the reasons provided in 37 C.F.R. § 11.24(d)(1).

The Notice and Order was delivered to Respondent on August 8, 2022. Respondent filed a response to the Notice and Order on August 29, 2022. In his response, Respondent does not dispute the imposition of reciprocal discipline based on any of the factors set forth in 37 C.F.R. § 11.24(d)(1). However, without citing or referencing any applicable authority, Respondent asks for a “reduced penalty” on the basis that identical discipline to the state issued discipline would be a “further extension of [his] punishment.” *See* Response to Notice and Order, at 2.

There is no legal basis to grant Respondent’s request for a “reduced penalty” here. The provisions of 37 C.F.R. § 11.24 require the imposition of “identical” reciprocal discipline unless a respondent makes a sufficient showing under 37 C.F.R. § 11.24(d)(1). As stated, Respondent concedes that he is unable to make that showing. *See* Response to Notice and Order, at 1-2.

The other procedure that could have provided some relief to Respondent here, the provisions that allow discipline to be imposed *nunc pro tunc* under 37 C.F.R. § 11.24(f), is also inapplicable. Respondent has not made the requisite showing under those provisions, which include prompt notification of the state discipline, voluntary ceasing practice before the Office and compliance with all provisions of 37 C.F.R. § 11.58. *See* 37 C.F.R. § 11.24(f). To the contrary, Respondent concedes his responsibility for the delay in communicating his state discipline to the USPTO, *see* Response to Notice and Order, at 2, and provides no evidence or argument that he has satisfied any of the other provisions of § 11.24(f). Consequently, he is not entitled to discipline to be imposed *nunc pro tunc*.

In sum, the reciprocal discipline rules require the imposition of identical discipline.

Because Respondent has conceded that he is unable to carry his burden with regard to any of the factors under 37 C.F.R. § 11.24(d)(1) and he has not made any showing under 37 C.F.R. § 11.24(f), Respondent's request for a reduced penalty is denied.

### Analysis

Based on the foregoing, it is hereby determined that there is no genuine issue of material fact under 37 C.F.R. § 11.24(d) and Respondent's suspension from the practice of patent, trademark, and other non-patent matters before the USPTO is the appropriate discipline.

ACCORDINGLY, it is hereby **ORDERED** that:

1. Respondent is suspended from the practice of patent, trademark and other non-patent matters before the USPTO, commencing on the date of this Final Order;
2. Respondent shall remain suspended from practice before the USPTO until the OED Director grants a petition requesting Respondent's reinstatement pursuant to 37 C.F.R. § 11.60;
3. Eighteen (18) months after the effective date of the Final Order, Respondent shall be eligible to file a petition requesting reinstatement before the Office;
4. As a condition of his reinstatement, Respondent shall provide satisfactory evidence to the OED Director that he took the Multistate Professional Responsibility Examination after July 15, 2021, and attained a scaled score of 85 or higher thereon;
5. Respondent shall comply with the duties enumerated in 37 C.F.R. § 11.58;
6. The OED Director shall electronically publish the Final Order at OED's electronic FOIA Reading Room, which is publicly accessible at: <http://foiadocuments.uspto.gov>;
7. The OED Director publish a notice in the *Official Gazette* materially consistent with the following:

### Notice of Suspension

This notice concerns Michael Anietie Essien of St. Paul, Minnesota, who is a registered patent attorney (Registration Number 50,534). In a reciprocal disciplinary proceeding, the Director of the United States Patent and Trademark Office ("USPTO") has ordered that Mr. Michael Anietie Essien: (a) be suspended from practice before the Office in patent, trademark, and other non-patent matters, effective as of the date of the Final Order; (b) shall remain suspended from practice before the Office until the OED Director grants Respondent's petition for reinstatement pursuant to 37 C.F.R. § 11.60; and (c) shall be eligible to file a petition requesting reinstatement to practice before the Office eighteen (18) months after the effective date of the Final Order, for violating 37 C.F.R. § 11.804(h), predicated upon being suspended from the practice of law with no right to petition for reinstatement for eighteen (18) months by a duly constituted authority of a State. Respondent must also provide satisfactory evidence of a scaled score of 85 or higher on the Multistate Professional Responsibility Examination.

Mr. Essien was suspended from the practice of law with no right to petition for reinstatement for eighteen (18) months in the state of Minnesota by the Minnesota Supreme Court for violations of the Minnesota Rules of Professional Conduct including: (1) in one client matter, failing to deposit a client's \$1,450 filing fees into a trust account, misappropriating those filing fees, neglecting the matter, and failing to communicate with the client, *see* Minn. R. Prof. Conduct 1.3, 1.4(a)(3), 1.4(a)(4), 1.15(a), and 8.4(c); (2) in another client matter, failing to communicate with the client, failing to deposit unearned fees into a trust account, and failing to promptly return the client's unearned fees, *see* Minn. R. Prof. Conduct 1.4(a)(4), 1.15(a), 1.15(c)(4), 1.15(c)(5), and 1.16(d); and (3) failing to maintain proper trust account books and records, resulting in shortages, commingling personal funds with client funds in his trust account, and allowing a third-party to withdraw funds from his trust account, *see* Minn. R. Prof. Conduct 1.15(a), 1.15(h), and 1.15(j). The Minnesota Supreme Court also conditioned Mr. Essien's reinstatement on, among other things, successful completion of the written examination required for admission to the practice of law by the State Board of Law Examiners on the subject of professional responsibility (*i.e.*, the Multistate Professional Responsibility Examination).

This action is taken pursuant to the provisions of 35 U.S.C. § 32 and 37 C.F.R. § 11.24. Disciplinary decisions are available for public review at the Office of Enrollment and Discipline's FOIA Reading Room, located at: <https://foiadocuments.uspto.gov/oed/>;

and

8. The OED Director give notice pursuant to 37 C.F.R. § 11.59 of the public discipline and the reasons for the discipline to disciplinary enforcement agencies in the state(s) where Respondent is admitted to practice, to courts where Respondent is known to be admitted, and to the public.

**Users, Berdan,** Digitally signed by Users,  
Berdan, David  
**David** Date: 2022.09.09 10:52:25  
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Date

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David Berdan  
General Counsel  
United States Patent and Trademark Office

on delegated authority by

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