

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

In the Matter of)	
)	
Elizabeth Yang,)	Proceeding No. D2021-11
)	
Respondent)	
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FINAL ORDER

The Director of the Office of Enrollment and Discipline (“OED Director”) for the United States Patent and Trademark Office (“USPTO” or “Office”) and Elizabeth Yang (“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’ stipulated facts, legal conclusion, and sanctions.

Jurisdiction

1. At all times relevant hereto, Respondent, of Monterey Park, California, has been a registered patent attorney (Registration No. 61,458) and an attorney in good standing in the State of California who has engaged in practice before the Office in trademark matters. Therefore, Respondent 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.

Background

A. U.S. Counsel Rule for Trademark Matters

3. The USPTO published a final rule (“U.S. Counsel Rule”) requiring applicants, registrants, or parties to a trademark proceeding whose domicile is not located within the U.S. or its territories to be represented by an attorney who is an active member in good standing of the bar of the highest court of a state in the U.S. *See* Requirement of U.S. Licensed Attorney for Foreign Trademark Applicants and Registrants, 84 FR 31498 (July 2, 2019).

4. The U.S. Counsel Rule became effective on August 3, 2019. *See* 37 C.F.R. § 2.11(a).

5. In the few years preceding the U.S. Counsel Rule’s effective date, the USPTO had seen many instances of unauthorized practice of law (“UPL”) where foreign parties who are not authorized to represent trademark applicants were improperly representing foreign applicants before the USPTO. As a result, increasing numbers of foreign applicants were likely receiving inaccurate or no information about the legal requirements for trademark registration in the U.S., such as the standards for use of a mark in commerce, who can properly aver to matters and sign for the mark owner, or even who the true owner of a mark is under U.S. law. This practice raised legitimate concerns that affected applications and any resulting registrations are potentially invalid, and thus negatively impacting the integrity of the trademark register. Hence, the USPTO implemented the requirement for representation by a qualified U.S. attorney in response to the increasing problem of foreign trademark applicants who purportedly are *pro se* (*i.e.*, one who does not retain a lawyer and appears for himself or herself) and who are filing inaccurate and possibly fraudulent submissions that violate the Trademark Act and/or the USPTO’s rules. For example, such foreign applicants filed applications claiming use of a mark in commerce, but frequently

support the use claim with mocked-up or digitally altered specimens that indicate the mark may not actually be in use. Many appear to be doing so on the advice, or with the assistance, of foreign individuals and entities who are not authorized to represent trademark applicants before the USPTO. This practice undermines the accuracy and integrity of the U.S. trademark register and its utility as a means for the public to reliably determine whether a chosen mark is available for use or registration, and places a significant burden on the trademark examining operation. *See* 84 FR at 31498-31499.

6. U.S. attorneys are required to provide their bar information to the USPTO when representing applicants and registrants, whether domiciled inside or outside the U.S. *See* 37 C.F.R. §§ 2.17(b)(3), 2.32(a)(4).

B. USPTO Signature Rules for Trademark Matters

7. The USPTO trademark signature rules require that all signatures be personally entered by the named signatory and that a person electronically signing a document must personally enter any 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) and (c) and 37 C.F.R. § 11.18(a).

8. At all relevant times, the following unequivocal published guidance from the USPTO identified the proscription against any person other than the named signatory signing electronically trademark documents filed with the USPTO:

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. *See In re Dermahose Inc.*, 82 USPQ2d 1793 (TTAB 2007); *In re Cowan*, 18 USPQ2d 1407 (Comm’r Pats. 1990). 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.

Trademark Manual of Examining Procedure § 611.01(c).

9. Trademark applications contain declarations that are signed under penalty of perjury, with false statements being subject to punishment under 18 U.S.C. § 1001. Signatories to declarations in trademark applications make specific representations regarding applicants' use of the mark in commerce and/or their intent to use the mark in commerce. The USPTO relies on such declarations signed under penalty of perjury in trademark applications in the course of examining trademark applications and issuing registrations.

C. The Trademark Applicant is the Practitioner's Client

10. A practitioner has an ethical obligation under the USPTO Rules of Professional Conduct to know who is the client. *See* 37 C.F.R. § 11.101 (concerning competency). "The PTO expects practitioners to know the identities of their clients and to take reasonable steps to avoid foreseeable prejudice to the rights of their clients." *See Responsibilities of Practitioners Representing Clients in Proceedings Before The Patent and Trademark Office*, 1421 CNOG 2690 (December 29, 2015) (citing 50 Federal Register 5164 (Feb. 6, 1985) and 1086 Trademark Official Gazette 357 (Jan. 5, 1988)).

11. Where a trademark practitioner works with an foreign intermediary, the client is the trademark applicant *See Responsibilities of Practitioners Representing Clients in Proceedings Before The Patent and Trademark Office*, 1091 OG 26 (May 25, 1988); *see also Strojirenstvi v. Toyoda*, 2 USPQ 2nd 1222 (Comm'r Pat. 1986) (explaining, in part, that a U.S. practitioner who receives instructions from a trademark owner through a foreign agent does not change the fact that the client is still the trademark owner rather than the foreign or agent).

Joint Stipulated Facts

12. At all times relevant hereto, Respondent has been a registered patent attorney and

a U.S. attorney in good standing in the State of California.

13. Since 2016, Respondent has been the principal attorney at her law firm, the Law Offices of Elizabeth Yang (“the Yang Law Firm”), where she provides legal services.

14. In September of 2019, Respondent was contacted by individuals affiliated with a foreign company known as Shenzhen Qianhai Be-Victory Network Technology Co., Ltd. (“Sellergrowth”). Respondent and OED understand that Sellergrowth is a Chinese company that provides services to foreign companies serving Amazon, eBay, and other online platforms. Sellergrowth proposed that Respondent act as the attorney of record on trademark applications filed with the USPTO on behalf of Sellergrowth’s clients. Respondent understood that Sellergrowth wished her to serve as the attorney of record on trademark applications filed with the USPTO on behalf of Sellergrowth’s customers due to the U.S. Counsel Rule, but Respondent indicates that she was not familiar with the rule and that she believed that being listed as the attorney of record was a procedural requirement, akin to being an agent for service of process.

15. Respondent agreed to a business relationship that allowed Sellergrowth to use Respondent’s name to file applications and receive trademark certificates from the USPTO as a domestic representative. In exchange, Sellergrowth agreed to pay Respondent \$1,500 per month for one year (a total of \$18,000).

16. Over the course of Respondent’s business relationship with Sellergrowth:

- a. Respondent was listed as the attorney of record in trademark applications filed by Sellergrowth with the USPTO.
- b. Respondent did not advise or discuss with the applicants, directly or through Sellergrowth, important legal issues regarding the trademark applications, such as what constitutes a proper specimen and the difference between Section 1(a) and

Section 1(b) trademark applications. Nor did Respondent provide the applicants, directly or through Sellergrowth, with any other substantive legal advice about their trademark applications.

- c. Respondent did not review the trademark applications prior to their filing by Sellergrowth with the USPTO.
- d. Respondent's electronic signature was entered on trademark applications and attendant declarations filed by Sellergrowth with the USPTO.
- e. Respondent did not regularly monitor the status of or review the trademark applications filed using her name through Sellergrowth.

17. Respondent represents to OED that she did not adequately understand the U.S. Counsel Rule during her business relationship with Sellergrowth. Respondent represents that she now fully understands the U.S. Counsel Rule and expresses contrition for her prior lack of understanding of the U.S. Counsel Rule and how her acts and omissions implicated several provisions of the USPTO Rules of Professional Conduct.

18. Respondent represents to OED that she did not adequately understand the USPTO trademark signature rules during her business relationship with Sellergrowth. Respondent represents that she now fully understands those rules and expresses contrition for her prior lack of understanding of those rules and how her acts and omissions implicated several provisions of the USPTO Rules of Professional Conduct.

19. Respondent acknowledges her responsibility to take corrective action for potential harm caused by her acts and omissions connected to her serving as U.S. Counsel for foreign-domiciled trademark applications filed on behalf of Sellergrowth's clients.

20. Respondent has taken corrective actions by (a) terminating her business

relationship with Sellergrowth and ending Sellergrowth's access to a joint email address Respondent had created to serve as the correspondence email address on applications filed on behalf of Sellergrowth clients for which she is the attorney of record; (b) directly contacting her clients on whose behalf she has been attorney of record at the USPTO to inform them about the unauthorized trademark filings and the impermissible signatures on their trademark applications and attendant declarations that do not comply with the USPTO trademark signature rules (c) contacting the USPTO regarding filings that were made in violation of the USPTO signature requirements; and (d) where applicable, contacting successor counsel for her Sellergrowth clients to inform them about the unauthorized trademark filings and impermissible signatures filed in the applications in which successor counsel replaced Respondent as the attorney of record. Respondent was candid with her clients regarding the impermissible signatures on their trademark applications and attendant declarations and took appropriate corrective action at no charge to the client when authorized.

Additional Considerations

21. Respondent has expressed contrition for her prior lack of understanding of the U.S. Counsel Rule and the USPTO trademark signature rules and how her acts and omissions implicated many provisions of the USPTO Rules of Professional Conduct.

22. Respondent is an active participant in her community, including being involved in multiple *pro bono* and volunteer activities related to the practice of law and improving the profession.

23. Respondent has expressed her understanding of the seriousness of the violations of the USPTO Rules of Professional Conduct stipulated to herein, and she acknowledges the potential adverse impact on her clients' intellectual property rights from the trademark filings that were made in violation of the USPTO's trademark regulations.

24. Respondent has never been the subject of professional discipline by the USPTO, any court, or any state bar.

25. Respondent has been fully cooperative with OED's investigation, including providing candid responses to requests for information, taking prompt corrective action, and engaging in an in-person interview with OED via video conference.

Joint Legal Conclusions

26. Respondent acknowledges that, based on the information contained in the joint stipulated facts, above, her conduct violated the following provisions of the USPTO Rules of Professional Conduct:

- a. 37 C.F.R. § 11.101 (practitioner shall provide competent representation) by not ensuring that she knew and understood the U.S. Counsel Rule and the USPTO trademark signature rules, which resulted in violations of those rules in the course of representing trademark clients;
- b. 37 C.F.R. § 11.103 (practitioner shall act with reasonable diligence and promptness in representing a client) by failing to take reasonable steps to ensure that her clients' trademark filings were prepared, reviewed, signed, and filed in compliance with the U.S. Counsel Rule and the USPTO trademark signature rules;
- c. 37 C.F.R. §§ 11.104(a) and (b) (communications with client) by not informing her clients, directly or through Sellergrowth, as to the actual or potential adverse consequences of not complying with the U.S. Counsel Rule or the USPTO trademark signature rules, including whether the electronic signing of a document, including a declaration, by one other than the named signatory jeopardizes the intellectual property rights of the clients, so that the clients could make informed decisions about their trademark applications and/or issued registrations;
- d. 37 C.F.R. §§ 11.303(a)(1), (a)(3), (b), and (d) (candor toward the USPTO) by

knowingly authorizing Sellergrowth to sign Respondent's name on trademark documents, including declarations, filed with the USPTO;

- e. 37 C.F.R. § 11.503(b) (responsibilities regarding non-practitioner assistance) by authorizing Sellergrowth to sign Respondent's name to trademark documents, including declarations, filed with the USPTO where Respondent knew that Sellergrowth was preparing, signing, and filing such documents (e.g., trademark applications) with the USPTO;
- f. 37 C.F.R. § 11.505 (assisting others in the unauthorized practice before the Office in trademark matters) by having third party non-practitioners to use her U.S. attorney credentials to prepare, sign, and file trademarks with the USPTO and by having third party non-practitioners to consult with trademark applicants and to prepare and file their USPTO filings without Respondent's supervision; and
- g. 37 C.F.R. § 11.804(d) (conduct prejudicial to the integrity of the U.S. trademark registration system) by (i) not complying with the U.S. Counsel Rule and (ii) not complying with the USPTO trademark signature rules by authorizing Sellergrowth to sign Respondent's name on trademark documents filed with the USPTO, including declarations, where Respondent was the named signatory on the document and the attorney of record for the trademark applicant, and (iii) assisting another (*i.e.*, Sellergrowth) to engage in the unauthorized practice before the USPTO in trademark matters.

Agreed-Upon Sanction

27. Respondent agrees and it is hereby ORDERED that:
- a. Respondent shall be, and hereby is, suspended from practice before the Office for a period of thirty (30) days commencing fourteen (14) days from the date of this Final Order;
 - b. Respondent shall serve a probationary period beginning on the date of this Final Order approving this Proposed Settlement Agreement and continuing for twelve (12) months from the date of decision granting Respondent's petition for reinstatement to practice before the USPTO;
 - c. Before the conclusion of the probationary period, Respondent shall provide to the OED Director a sworn affidavit or verified declaration attesting, and evidence demonstrating, that Respondent has successfully completed six (6) hours of continuing legal education as follows: (i) two (2) hours on ethics/professional responsibility and (ii) four (4) hours on U.S. trademark law;
 - d. Before the conclusion of the probationary period, Respondent shall provide to the OED Director a sworn affidavit or verified declaration attesting that Respondent has reviewed thoroughly (i) all provisions of the Trademark Manual of Examining Procedure ("TMEP"), including, but not limited to, the provisions of the USPTO's

signature requirements, (ii) 37 C.F.R. § 2.11, and (iii) the commentary on the *Requirement of U.S. Licensed Attorney for Foreign Trademark Applicants and Registrants*, found at 84 FR 31498-01;

- e. On at least a weekly basis throughout the term of the 12-month probationary period, Respondent shall (i) search the USPTO Trademark Electronic Search System (“TESS”) for applications identifying her as the attorney of record and (ii) promptly inform appropriate personnel at the USPTO of any filings identifying her as the attorney of record that were not made by her or with her knowledge and consent;
 - f. On a quarterly basis throughout the term of the 12-month probationary period, Respondent shall submit a written report to the OED Director stating that she has completed the searches of the USPTO TESS database required by section e., above, and, if applicable, stating that she identified no applications in which she was named as the attorney of record that were not made by her or without her knowledge and consent;
 - g. (1) if the OED Director is of the opinion that Respondent, during her probationary period, failed to comply with any provision of the USPTO Rules of Professional Conduct, the provisions of the Proposed Settlement Agreement, or any of the above conditions of probation identified in items c. through f., the OED Director shall:
 - (A) issue to Respondent an Order to Show Cause why the USPTO Director should not enter an order immediately suspending the Respondent for up to an additional eleven (11) months 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;
 - (C) grant Respondent fifteen (15) days to respond to the Order to Show Cause; and
 - (2) in the event that after the 15-day period for response and consideration of the response, if any, received from Respondent, the OED Director continues to be of the opinion that Respondent, during Respondent’s probationary period, failed to comply with the USPTO Rules of Professional Conduct, the provisions of the Proposed Settlement Agreement, or any of the above conditions of probation identified in items c. through f., the OED Director shall:
 - (A) deliver to the USPTO Director: (i) the Order to Show Cause; (ii) Respondent’s response to the Order to Show Cause, if any; and (iii) argument and evidence supporting the OED Director’s position;
- and

(B) request that the USPTO Director enter an order immediately suspending Respondent for up to an additional eleven (11) months for the violations set forth in the Joint Legal Conclusions above;

- h. Nothing herein shall prevent the OED Director from seeking discrete discipline for any misconduct that formed the basis for an Order to Show Cause issued pursuant to the preceding subparagraph;
- i. In the event the Respondent seeks a review of any action taken pursuant to subparagraph g., above, such review shall not operate to postpone or otherwise hold in abeyance the suspension;
- j. The OED Director shall electronically publish this Final Order at the OED's electronic FOIA Reading Room, which is publicly accessible through the Office's website at: <https://foiadocuments.uspto.gov/oed/>;
- k. The OED Director shall publish the following notice in the *Official Gazette*:

Notice of Suspension and Probation

This notice concerns Ms. Elizabeth Yang, a registered practitioner and an attorney licensed in the state of California, who resides in Monterey Park, California. Ms. Yang is hereby suspended from practice before the Office for a period of thirty (30) days and placed on probation for violating 37 C.F.R. §§ 11.101, 11.103, 11.104(a), 11.303, 11.503(b), 11.505, and 11.804(d). Ms. Yang also must complete a CLE requirement.

Ms. Yang is a registered patent attorney whose practice normally encompasses family law services. These violations are predicated on Ms. Yang's acts and omissions during the course of her business relationship with Shenzhen Qianhai Be-Victory Network Technology Co., Ltd. ("Sellergrowth") and its employees, none of whom were authorized to represent trademark applicants, registrants, or parties before the USPTO. As explained below, Ms. Yang agreed to allow Sellergrowth and its employees to use her name and bar credentials to file trademark application documents on behalf of foreign-domiciled applicants. Such acts and omissions allowed the entity to circumvent the purposes of the U.S. Counsel Rule, which sets forth a U.S.-licensed attorney requirement for foreign-domiciled trademark applicants and registrants. *See* Requirement of U.S. Licensed Attorney for Foreign Trademark Applicants and Registrants, 84 FR 31498 *et seq.* (July 2, 2019). Ms. Yang's conduct also violated the USPTO trademark signature rules.

In October of 2019, Ms. Yang signed a contract with Sellergrowth which, *inter alia*, provided for Ms. Yang to receive payment from Sellergrowth in exchange for being listed as the attorney of record on trademark applications filed with the USPTO on behalf of Sellergrowth clients. However, only Sellergrowth

employees – not Ms. Yang – interacted with the trademark applicant clients, advised them, and prepared the trademark application materials. Trademark applications filed on behalf of Sellergrowth clients with Ms. Yang as the attorney of record listed a correspondence email address which was set up by Ms. Yang but accessed only by Sellergrowth employees. Ms. Yang did not review documents prepared or filed by Sellergrowth on behalf of her clients, and she did not communicate with the clients directly or through Sellergrowth until after she was contacted by OED. Pursuant to the contract, Ms. Yang authorized Sellergrowth to insert her name electronically into the signature lines of the applications, including for declarations. Sellergrowth electronically entered the name of Ms. Yang in the signature blocks and filed the impermissibly signed trademark documents with the USPTO.

Ms. Yang represents that she did not understand adequately the U.S. Counsel Rule, the USPTO trademark signature rules, or the guidance set forth in TMEP § 611.01(c) (concerning only the named signatory being the person who enters his or her electronic signature) until around December of 2020, and, thereafter, she changed her practice to ensure that she thereafter personally signed each prospective trademark document filed with the USPTO bearing her signature.

Ms. Yang recognizes her lapses, demonstrated genuine contrition, and accepted responsibility for her conduct. Acknowledging her duty to take remedial steps, Ms. Yang took corrective actions by (a) immediately terminating her agreement with Sellergrowth and restricting Sellergrowth's access to a shared correspondence email address; (b) directly contacting Sellergrowth clients on whose behalf she has been attorney of record at the USPTO to inform them about the unauthorized trademark filings and the impermissible signatures on their trademark applications and attendant declarations that do not comply with the USPTO trademark signature rules, and taking appropriate corrective action at no charge to the client when authorized; (c) contacting the USPTO regarding filings that were made in violation of the USPTO signature requirements; and (d) where applicable, contacting successor counsel for her Sellergrowth clients to inform them about the unauthorized trademark filings and impermissible signatures filed in the applications in which successor counsel replaced Ms. Yang as the attorney of record.

Trademark practitioners engaged in practice before the USPTO are to be reasonably well informed as to the USPTO trademark signature rules and U.S. Counsel Rule. The latter rule became effective on August 3, 2019, and requires applicants, registrants, or parties to a trademark proceeding whose domicile is not located within the U.S. or its territories to be represented by an attorney who is an active member in good standing of the bar of the highest court of a state in the U.S. *See* 84 FR 31498; 37 C.F.R. § 2.11(a).

In the few years preceding the U.S. Counsel Rule's effective date, the USPTO had seen many instances of unauthorized practice of law where foreign parties

who are not authorized to represent trademark applicants were improperly representing foreign applicants before the USPTO. As a result, increasing numbers of foreign applicants were likely receiving inaccurate or no information about the legal requirements for trademark registration in the U.S., such as the standards for use of a mark in commerce, who can properly aver to matters and sign for the mark owner, or even who the true owner of a mark is under U.S. law. This practice raised legitimate concerns that affected applications and any resulting registrations are potentially invalid, and thus negatively impacting the integrity of the trademark register. Hence, the USPTO implemented the requirement for representation by a qualified U.S. attorney in response to the increasing problem of foreign trademark applicants who purportedly are *pro se* (*i.e.*, one who does not retain a lawyer and appears for himself or herself) and who are filing inaccurate and possibly fraudulent submissions that violate the Trademark Act and/or the USPTO's rules. For example, such foreign applicants filed applications claiming use of a mark in commerce, but frequently support the use claim with mocked-up or digitally altered specimens that indicate the mark may not actually be in use. Many appear to be doing so on the advice, or with the assistance, of foreign individuals and entities who are not authorized to represent trademark applicants before the USPTO. This practice undermines the accuracy and integrity of the U.S. trademark register and its utility as a means for the public to reliably determine whether a chosen mark is available for use or registration, and places a significant burden on the trademark examining operation. *See* 84 FR at 31498-31499.

The U.S. Counsel Rule is intended to increase USPTO customer compliance with U.S. trademark law and USPTO regulations, improve the accuracy of trademark submissions to the USPTO, and safeguard the integrity of the U.S. trademark register. For example, practitioners who represent trademark applicants before the USPTO are expected to, among other things, undertake a bona fide review of specimens submitted to the USPTO in support of a trademark application. A practitioner's failure to comply with his or her ethical obligations under the U.S. Counsel rule potentially adversely affect the integrity of the USPTO trademark registration process.

A USPTO practitioner has an ethical obligation under the USPTO Rules of Professional Conduct to know who is the client. *See* 37 C.F.R. § 11.101 (concerning competency) and 11.804(i) (concerning other conduct that adversely reflects on a practitioner's fitness to practice before the Office). "The PTO expects practitioners to know the identities of their clients and to take reasonable steps to avoid foreseeable prejudice to the rights of their clients." *See Responsibilities of Practitioners Representing Clients in Proceedings Before The Patent and Trademark Office*, 1421 CNOG 2690 (December 29, 2015) (citing 50 Federal Register 5164 (Feb. 6, 1985) and 1086 Trademark Official Gazette 357 (Jan. 5, 1988)).

Where a trademark practitioner works with a foreign intermediary, the client is the trademark applicant. *See Responsibilities of Practitioners Representing Clients in Proceedings Before The Patent and Trademark Office*, 1091 OG 26 (May 25, 1988); *see also Strojirenstvi v. Toyoda*, 2 USPQ 2nd 1222 (Comm'r Pat. 1986) (explaining, in part, that a U.S. practitioner who receives instructions from a trademark owner through a foreign agent does not change the fact that the client is still the trademark owner rather than the foreign or agent).

Ms. Yang has been fully cooperative with OED's investigation, including providing candid responses to requests for information, taking corrective action, and engaging in an in-person interview with OED via video conference.

This action is the result of a settlement agreement between Ms. Yang 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>;

1. Nothing in this 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;

Respondent's Duties and Responsibilities Under 37 C.F.R. § 11.58

- m. Respondent shall have the following duties and responsibilities as a consequence of being suspended:
 - (1) Respondent shall provide notice of her suspension to all State and Federal jurisdictions and administrative agencies to which the practitioner is admitted to practice as set forth in 37 C.F.R. § 11.58(c)(2);
 - (2) Respondent shall provide notice of her suspension to all clients the practitioner represents having immediate or prospective business before the Office, and shall specify any urgent dates for the client's matters, and advise the client to act promptly to seek legal advice elsewhere if the client is not already represented by another practitioner, as set forth in 37 C.F.R. § 11.58(c)(3);
 - (3) Respondent shall provide notice of her suspension to the practitioners for all opposing parties (or, to the parties in the absence of a practitioner representing the parties) in matters pending before the Office as set forth

in 37 C.F.R. § 11.58(c)(4);

- (4) Respondent shall not hold herself out as authorized to practice law before the Office as set forth in 37 C.F.R. § 11.58(b)(2) until she is reinstated to practice before the Office; and
- (5) Respondent shall not render legal advice or services to any person having immediate or prospective business before the Office as set forth in 37 C.F.R. § 11.58(b)(5) until she is reinstated to practice before the Office;

Duties and Responsibilities Respondent Does Not Have Unless a Petition for Reinstatement of Respondent is Not Granted Within 90 Days of the Final Order

- n. Respondent shall not have the following duties and responsibilities as a consequence of being suspended, unless a petition for reinstatement of Respondent is not granted within 90 days of the Final Order:
 - (1) Respondent does not have to file a notice of withdrawal in each pending application as set forth in 37 C.F.R. § 11.58(c)(1);
 - (2) Respondent does not have to deliver to all clients documents as set forth in 37 C.F.R. § 11.58(c)(3)(ii);
 - (3) Respondent does not have to relinquish to the client, or other practitioner designated by the client, all funds for practice before the Office, including any legal fees paid in advance that have not been earned and any advanced costs not expended as set forth in 37 C.F.R. § 11.58(c)(3)(iii); and
 - (4) Respondent does not have to remove any advertisement or representation that would reasonably suggest that the practitioner is authorized to practice before the Office as set forth in 37 C.F.R. § 11.58(b)(3);

Affidavit of Compliance Under 37 C.F.R. § 11.58

- o. Respondent shall provide an affidavit of compliance in accordance with 37 C.F.R. §11.58(d), certifying that she has complied with the provisions of this Agreement. Appended to the affidavit shall be:
 - (1) a copy of each form of notice, the names and addresses of the clients, practitioners, courts, and agencies to which notices were sent, and all return receipts or returned mail received up to the date of the affidavit

as set forth in 37 C.F.R. § 11.58(d)(1); and

- (2) a list of all other State, Federal, and administrative jurisdictions to which the practitioner is admitted to practice as set forth in 37 C.F.R. § 11.58(d)(4);

p. Respondent's affidavit **need not** append the following:

- (1) a schedule showing the location, title and account number of every bank account designated as a client or trust account, deposit account in the Office, or other fiduciary account, and of every account in which Respondent holds or held as of the entry date of the order any client, trust, or fiduciary funds for practice before the Office as set forth in 37 C.F.R. § 11.58(d)(2);
- (2) a schedule describing Respondent's disposition of all client and fiduciary funds for practice before the Office in Respondent's possession, custody or control as of the date of the order or thereafter as set forth in 37 C.F.R. § 11.58(d)(3);
- (3) an affidavit describing the steps taken to remove any advertisements or other representations which would reasonably suggest that the practitioner is authorized to practice patent, trademark, or other non-patent law before the Office as set forth in 37 C.F.R. § 11.58(d)(5);

No Limited Recognition

q. Because Respondent's suspension shall commence fourteen (14) days after the date that the Final Order is signed, Respondent shall not be granted limited recognition under 37 C.F.R. § 11.58(f);

Petition For Reinstatement Under 37 C.F.R. § 11.60

- r. Respondent shall not resume practice of patent, trademark, or other non-patent law before the Office until reinstated by order of the OED Director or the USPTO Director as set forth in 37 C.F.R. § 11.60(a);
- s. After the term of Respondent's suspension and compliance with the applicable provisions of 37 C.F.R. § 11.58 as set forth in this Agreement, Respondent may file a petition for reinstatement as set forth in 37 C.F.R. § 11.60(b);
- t. Any petition for reinstatement shall be filed with the OED Director and shall be accompanied by the required fee as set forth in 37 C.F.R. § 11.60(c);

- u. Upon filing of a petition for reinstatement by Respondent, such petition shall comply with the applicable provisions of 37 C.F.R. §§ 11.60(c)(1)-(3), and shall attest to her compliance with the applicable provisions of 37 C.F.R. § 11.58 set forth in this Agreement, including a sworn declaration that she has complied with 37 C.F.R. § 11.58(a) affirming that she has not engaged in the practice of patent, trademark law or other non-patent matters before the Office during her suspension;
- v. The OED Director does not have to publish a notice of Respondent’s petition for reinstatement as set forth in 37 C.F.R. § 11.60(h)(1);
- w. 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
- x. The parties shall bear their own costs incurred to date and in carrying out the terms of this Agreement and any Final Order.

Users, Shewchuk, David
 Digitally signed by Users, Shewchuk, David
 Date: 2021.12.17 10:48:27 -05'00'

 David Shewchuk
 Acting General Counsel
 United States Patent and Trademark Office

 Date

on delegated authority by

Andrew Hirshfeld
 Performing the Functions and Duties Of The
 Under Secretary of Commerce for Intellectual Property and
 Director Of The United States Patent And Trademark Office