

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

In the Matter of	)	
	)	
Phillip T. Horton,	)	Proceeding No. D2025-15
	)	
Respondent	)	
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**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 Mr. Phillip T. Horton (“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 conclusions, and sanctions.

**Jurisdiction**

1. Respondent of Candor, North Carolina, has been an attorney in good standing in the State of Massachusetts (Bar No. 682104) who was engaged in practice before the Office in trademark matters.
2. Respondent is subject to the USPTO Rules of Professional Conduct, 37 C.F.R. § 11.101 *et seq.*
3. 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.

**Joint Stipulated Facts**

4. At all times relevant hereto, Respondent has been an admitted attorney in good standing in the State of Massachusetts (Bar No. 682104).
5. Since at least May 2022, Respondent has been working as an Associate Attorney managing the trademark practice at the Rapacke Law Group, P.A. (“Rapacke Law Firm”), which has also employed non-attorney trademark assistants.
6. The Rapacke Law Firm assists individuals and corporations in protecting and maintaining their intellectual property rights including, *inter alia*, trademarks. In connection with the alleged

conduct investigated by the Office of Enrollment and Discipline (“OED”) in this matter, Respondent’s trademark clients were domiciled in the United States.

7. At all relevant times, Respondent, was an Associate Attorney at Rapacke Law Firm with supervisory authority over non-attorney trademark assistants and was responsible for ensuring that those assistants’ conduct was compatible with his professional obligations under the USPTO Rules of Professional Conduct in connection with trademark filings.

8. Respondent directed his non-practitioner assistants to enter his signature on trademark documents presented to the USPTO. Respondent also entered his Managing Partner’s signature on trademark documents presented to the USPTO, but he did so with the Managing Partner’s authorization and consent.

9. Respondent represents that he did not understand the USPTO signature rules and that he did not fully understand the direction set forth in the Trademark Manual of Examining Procedure (“TMEP”) § 611.01 (concerning only the named signatory being the person who enters his or her signature).

10. Respondent represents that, after learning that he had violated the USPTO signature rules and direction, he promptly communicated directly and candidly with his trademark clients regarding the impermissible signatures on their trademark applications and agreed to take action at no charge to any of his clients.

11. Respondent represents that once he was informed of OED’s investigation, he began taking action regarding all of the impermissibly signed documents, i.e., approximately four hundred and sixty-seven (467) impermissibly signed trademark documents (including declarations) filed with the USPTO during an approximately 27-month period from May 2022 through August 2024. For example, Respondent represents that he directly contacted all of the affected clients to inform them about the impermissible signatures on their trademark applications and attendant declarations that do not comply with the USPTO trademark signature rules, and he contacted the USPTO in writing regarding the filings that were made in violation of the USPTO signature requirements and direction.

12. Respondent represents that he has continued to work directly with his clients regarding any actual or potential harm to his clients’ intellectual property rights in pending trademark applications and issued registrations resulting from violations of the USPTO trademark signature rules and direction.

#### **Additional Considerations**

13. Respondent expresses contrition for his lack of understanding of the USPTO trademark signature rules and direction as well as how his acts and omissions implicated many provisions of the USPTO Rules of Professional Conduct.

14. Respondent understands the seriousness of the violations of the USPTO Rules of Professional Conduct stipulated to herein, and he acknowledges the actual or potential harm to his clients’ intellectual property rights in pending trademark applications and issued registrations

resulting from his and his staff's conduct made in violation of the USPTO's trademark regulations.

15. Respondent represents that he has never been the subject of professional discipline by the USPTO, any court, or any state bar.

16. Respondent has been fully cooperative with OED's investigation, including providing candid responses to requests for information and engaging in an interview with OED.

17. Respondent now understands and acknowledges that (a) the USPTO trademark signature rule requiring the named signatory to enter his or her signature on a trademark document to be presented to the Office is a substantive rule, not a mere technical requirement and (b) a failure of the named signatory to enter his or her signature on a trademark document may actually or potentially harm the intellectual property rights of trademark applicants and registrants/owners as well as the integrity of the USPTO trademark registration process.

#### **Joint Legal Conclusions**

18. Respondent acknowledges that, based on the information contained in the joint stipulated facts, above, Respondent's acts and omissions violated the following provisions of the USPTO Rules of Professional Conduct:

- a. 37 C.F.R. § 11.101 (requiring a practitioner to provide competent representation to a client) by, *inter alia*, (i) representing clients before the Office in trademark matters without adequately understanding the USPTO trademark signature rules or TMEP guidance and (ii) presenting trademark documents (including declarations) to the USPTO that violated the USPTO trademark signature rules;
- b. 37 C.F.R. § 11.103 (requiring a practitioner to act with reasonable diligence and promptness in representing a client), and 37 C.F.R. § 11.503(b) (requiring a practitioner having direct supervisory authority over a non-practitioner assistant to, *inter alia*, make reasonable efforts to ensure that the non-practitioner's conduct is compatible with the professional obligations of the practitioner) by, *inter alia*, not ensuring compliance with the USPTO's trademark signature rules and direction by the non-practitioner assistants in his firm;
- c. 37 C.F.R. § 11.804(c) (engaging in misrepresentation) by, *inter alia*, presenting approximately 467 trademark documents (including declarations) to the USPTO where (i) Respondent knew that the named signatory had not signed the document and (ii) Respondent knew that the USPTO would rely on such documents as a part of the trademark registration process; and
- d. 37 C.F.R. § 11.804(d) (conduct prejudicial to the integrity of the U.S. trademark registration system) by, *inter alia*, presenting approximately 467 trademark documents (including declarations) to the USPTO where (i) Respondent knew that the named signatory had not signed the document and (ii) Respondent knew

that the USPTO would rely on such documents as a part of the trademark registration process.

### **Agreed-Upon Sanction**

19. Respondent has freely and voluntarily agreed, and it is hereby ORDERED that:

- a. Respondent be publicly reprimanded;
- b. Respondent be placed on probation for twelve (12) months beginning with the date of this Final Order;
- c. Respondent be considered to be in active and good standing with the USPTO notwithstanding being placed on probation, and, therefore, he is authorized to practice before the Office in trademark matters during the entirety of his probationary period, provided that he is not subsequently suspended or excluded;
- d. (1) If the OED Director is of the good-faith opinion that Respondent, during his probationary period, failed to comply with any provision of the Agreement, this Final Order, or any provision of the USPTO Rules of Professional Conduct, 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 four (4) 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 pursuant to 37 C.F.R. § 11.11(a);

(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 good-faith opinion that Respondent, during Respondent's probationary period, failed to comply with the USPTO Rules of Professional Conduct, this Final Order, or any provisions of the Agreement, including any of the above conditions of probation identified in items b. and d., 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 four (4) months for the violations set forth in the Joint Legal Conclusions above;

- e. 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;
- f. In the event the Respondent seeks a review of any action taken pursuant to subparagraph d., above, such review shall not operate to postpone or otherwise hold in abeyance any suspension;
- g. 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/>;
- h. The OED Director shall publish a notice in the *Official Gazette* that is materially consistent with the following:

**Notice of Public Reprimand and Probation**

This notice concerns Mr. Phillip T. Horton of Candor, North Carolina, who is an attorney licensed by the State of Massachusetts (Bar No. 682104). Mr. Horton is hereby publicly reprimanded and placed on probation for violating 37 C.F.R. §§ 11.101, 11.103, 11.503(b), 11.804(c), and 11.804(d) predicated on presenting trademark documents (including declarations) to the USPTO that violated the USPTO signature rules and direction.

Mr. Horton represented U.S. domiciled trademark clients in preparing and filing trademark documents with the USPTO where, as an Associate Attorney, he had supervisory authority over several non-practitioner assistants. From May 2022 through August 2024, Mr. Horton (a) improperly signed his Managing Attorney's signature on trademark documents presented to the USPTO (with his Managing Attorney's authorization and consent) and (b) authorized non-practitioner assistants to enter his signature in approximately 467 trademark documents presented to the USPTO.

Mr. Horton recognized his ethical lapses, demonstrated genuine contrition, and accepted responsibility for his conduct. Mr. Horton has been fully cooperative with OED's investigation, including providing candid responses to requests for information and engaging in an interview with OED.

The USPTO has published ample, readily available information for practitioners regarding what is competent practice before the Office in trademark matters. In particular, the agency maintains a webpage regarding important trademark information including specific links to relevant laws, rules, regulations, and rulemaking. (*Available at* [www.uspto.gov/trademarks](http://www.uspto.gov/trademarks)).

The agency publishes online and regularly updates its Trademark Manual of Examining Procedure (“TMEP”) (*Available at* [tme.uspto.gov/RDMS/TMEP/current](http://tme.uspto.gov/RDMS/TMEP/current)). The TMEP provides trademark practitioners, *inter alia*, with practices and procedures relative to prosecution of applications to register marks in the USPTO.

Trademark practitioners should be mindful that the USPTO trademark signature rules requiring the named signatory to enter his or her signature on a trademark document to be presented to the Office is a substantive rule, not a mere technical requirement; therefore, a failure of a named signatory to enter his or her signature on a trademark document actually or potentially adversely affects a trademark applicants’ and trademark registrants’ intellectual property rights as well as the integrity of the USPTO trademark registration process.

This action is the result of a settlement agreement between Mr. Horton 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/>;

- i. 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; and/or (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;
- j. Based on Respondent’s agreement to do so, Respondent waives all rights to seek reconsideration of this Final Order under 37 C.F.R. § 11.56, waives the right to have this Final Order reviewed under 37 C.F.R. § 11.57, and waives the right otherwise to appeal or challenge this Final Order in any manner; and

- k. Each party shall each bear their own costs incurred to date and in carrying out the terms of the Agreement and this Final Order.

Users,  
Choe, Tricia

Digitally signed by  
Users, Choe, Tricia  
Date: 2025.03.20  
07:59:41 -04'00'

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Tricia Choe  
Associate General Counsel for General Law  
United States Patent and Trademark Office

\_\_\_\_\_  
Date

on delegated authority by

Coke Morgan Stewart  
Acting Under Secretary of Commerce for Intellectual Property and  
Acting Director of the United States Patent and Trademark Office

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that the foregoing Final Order was sent, on this day, to the parties in the manner indicated below-

Via first-class certified mail, return receipt requested:

Mr. Phillip T. Horton

[REDACTED]

*Respondent*

Via e-mail:

Sydney Johnson

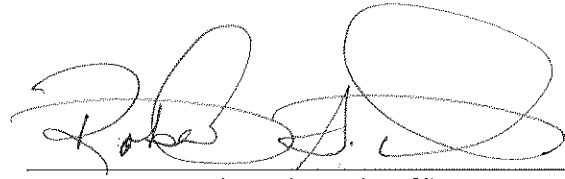
Sydney.Johnson@uspto.gov

[REDACTED]

*Counsel for OED Director*

3/20/25

Date



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