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

In the Matter of	)	
	)	
Richard R. Peters,	)	Proceeding No. D2026-40
	)	
Respondent	)	
	)	

FINAL ORDER

The Deputy General Counsel for Enrollment and Discipline and the Director of the Office of Enrollment and Discipline ("OED Director") for the United States Patent and Trademark Office ("USPTO" or "Office") and Richard R. Peters ("Respondent"), have submitted a Proposed Settlement of Disciplinary Matter ("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 Albuquerque, New Mexico, is a registered patent attorney (Registration Number 61,441). Respondent is authorized to practice law in the State of California (Bar Id No. 269128). Respondent is subject to the USPTO Rules of Professional Conduct, 37 C.F.R. § 11.101 *et seq.*

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

Micro Entity Status for Certain Patent Applicants

3. Certain applicants and patent owners can benefit from a significant reduction on most USPTO fees if they qualify and file the appropriate papers in their application or patent. To benefit from this fee reduction, applicants and patentees must establish "micro entity" status pursuant to 37 C.F.R. § 1.29. *See generally* Manual of Patent Examining Procedure ("MPEP") § 509.04.

4. There are two separate bases for establishing micro entity status. One is referred to as the "gross income basis" under 35 U.S.C. § 123(a), and the other is referred to as the "institution of

higher education basis" under 35 U.S.C. § 123(d). *See* MPEP § 509.04 ("II. Bases for Establishing Micro Entity Status.") Under the "gross income" basis for establishing micro entity status, there is a limit to the number of previously filed applications for an applicant to qualify for micro entity status.

5. In order to qualify as a micro entity, patent applicants must certify that:

> (1) [t]he applicant qualifies as a small entity as defined in § 1.27[;] . . .
>
> (2) [n]either the applicant nor the inventor nor a joint inventor has been named as the applicant or the inventor or a joint inventor on more than four previously filed patent applications[;] . . .
>
> (3) [n]either the applicant nor the inventor nor a joint inventor, in the calendar year preceding the calendar year in which the applicable fee is being paid, had a gross income . . . exceeding three times the median household income for that preceding calendar year[;] . . . and
>
> (4) [n]either the applicant nor the inventor nor a joint inventor has assigned, granted, or conveyed, nor is under an obligation by contract or law to assign, grant, or convey, a license or other ownership interest in the application concerned to an entity that . . . had a gross income . . . exceeding three times the median household income for that preceding calendar year[.]. . .

See generally 37 C.F.R. § 1.29; MPEP § 509.04 (underline added).

Calculating the "Previously Filed Patent Applications" Limit

6. For purposes of establishing micro entity status under the "gross income" basis, the application filing limit includes: (i) previously filed U.S. nonprovisional applications (e.g., utility, design, plant, continuation, and divisional applications), (ii) previously filed U.S. reissue applications, and (iii) previously filed U.S. national stage applications under the Patent Cooperation Treaty (PCT). *See* MPEP § 509.04(a) ("B. Application Filing Limit").

7. "All such applications naming the inventor or a joint inventor are counted toward the application filing limit, whether the applications were filed before, on, or after March 19, 2013. Further, it does not matter whether the previously filed applications are pending, patented, or abandoned; they are still included when counting to determine whether the application filing limit has been reached." MPEP § 509.04(a) ("B. Application Filing Limit").

8. "The application filing limit does not include: (i) foreign applications; (ii) international (PCT) applications for which the basic U.S. national stage filing fee was not paid; and (iii) provisional applications. In addition, where an applicant, inventor, or joint inventor has assigned, or is under an obligation by contract or law to assign, all ownership rights in the application as the result of the applicant's, inventor's, or joint inventor's previous employment; the applicant,

inventor or joint inventor is not considered to be named on the prior filed application for purposes of determining micro entity status. *See* 37 C.F.R. 1.29(b)." MPEP § 509.04(a) ("B. Application Filing Limit").

9. "Because the four-application limit is a limit on previously filed U.S. nonprovisional applications, reissue applications, and national stage applications, the maximum number of applications in which fees can be paid at the micro entity discount rate can vary from 0 to 5 for any given inventor." MPEP § 509.04(a) ("B. Application Filing Limit").

Certification of Micro Entity

10. "35 U.S.C. 123 requires a certification as a condition for an applicant to be considered a micro entity. The certification must be in writing and must be filed prior to or at the time a fee is first paid in the micro entity amount in an application or patent." MPEP § 509.04.

11. "A fee may be paid in the micro entity amount only if it is submitted with, or subsequent to, the submission of a certification of entitlement to micro entity status. *See* 37 C.F.R. § 1.29(f)." MPEP § 509.04.

12. "Any attempt to fraudulently establish status or pay fees as a micro entity shall be considered as a fraud practiced or attempted on the Office. Improperly, and with intent to deceive, establishing status or paying fees as a micro entity shall be considered as a fraud practiced or attempted on the Office. *See* 37 C.F.R. 1.29(j)." MPEP § 509.04.

Statutory Penalties for False Assertions or Certifications of Small and Micro Entity Status

13. As of July 8, 2025, registered practitioners should be reasonably aware that, as part of the USPTO's continuing efforts to mitigate threats to the U.S. patent system and to protect that system's integrity, the USPTO rules of patent practice include statutory penalties for falsely made assertions or certifications of small and micro entity status. *See* 35 U.S.C. §§ 41(j) and 123(f). False certifications unjustly diminish the monetary resources of the USPTO, and false certifications on petitions or requests to expedite examination result in applications being unjustly advanced out of turn. As required by statute, the USPTO assesses a fine of not less than three times the amount an entity failed to appropriately pay the USPTO when the entity is found to have falsely made an assertion or certification of small or micro entity status, unless the entity shows that the assertion or certification was made in good faith. *See* 35 U.S.C. §§ 41(j) and 123(f); *see also* 15 *Official Gazette* 204 (July 8, 2025).

14. As of July 8, 2025, the USPTO began issuing a combined notice of payment deficiency and order to show cause as to why a fine should not be assessed when the USPTO makes a preliminary determination that a pending patent application or patent contains a false assertion or certification that resulted in the payment of at least one fee in an unentitled reduced amount. 15 *Official Gazette* at 204. The agency issues a subsequent notice to provide a final determination of whether a fine is being assessed, and the fine amount, based on any timely response to the combined notice and order to show cause, and the record as a whole. *Id.* An entity is subject to the penalty provisions only when inappropriately discounted fees were paid on or after December 29, 2022. *Id.* at 206.

Certifications to the USPTO when Presenting Papers

15. Registered practitioners make important certifications via 37 C.F.R. § 11.18 whenever presenting (*e.g.*, by signing, filing, submitting, or later advocating) any paper to the USPTO.

16. The registered practitioner certifies that all statements made on his or her own knowledge are true, and that all statements based on the presenter's information and belief are believed to be true. *See* 37 C.F.R. § 11.18(b)(1).

17. The registered practitioner also certifies that:

> [t]o the best of the party's knowledge, information and belief, *formed after an inquiry reasonable under the circumstances* (i) the paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of any proceeding before the Office; (ii) the other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law; (iii) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and (iv) the denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

37 C.F.R. § 11.18(b)(2) (emphasis added). Accordingly, a registered practitioner who presents any paper to the USPTO —including certifications of micro entity status— certifies that he or she has conducted an inquiry reasonable under the circumstances that supports the factual assertions set forth in the paper. *See* 37 C.F.R. § 11.18(b)(2)(iii).

18. Violations of § 11.18 may jeopardize the probative value of the filing, and any false or fraudulent statements are subject to criminal penalty under 18 U.S.C. § 1001. *See* 37 C.F.R. § 11.18(b)(1).

19. Any registered practitioner who violates the provisions of this section may also be subject to disciplinary action. *See* 37 C.F.R. § 11.18(d).

Joint Stipulated Facts

20. Respondent of Albuquerque, New Mexico, is a registered patent attorney (Registration Number 61,441).

21. Respondent is an active member in good standing of the State Bar of California (Bar Id No. 269128).

22. Respondent represented patent applicant clients before the Office who were seeking micro entity status eligibility to file patent applications.

23. Between December 2019, and June 2023, Respondent signed micro entity certifications in at least fourteen (14) patent applications and presented the documents to the Office on behalf of his applicant clients wherein the applications erroneously certified the applicants were entitled to micro entity status.

24. Pursuant to 37 C.F.R. § 11.18, Respondent certified, for each of the fourteen (14) applications, that he had undertaken an inquiry reasonable under the circumstances to support the applicant's assertion of entitlement of micro entity status.

25. Regarding his § 11.18 certifications, Respondent asserts that he relied on his understanding of the language in the USPTO's micro entity certification forms, exclusive of the statute, rules, and guidance relating to micro entity status. Respondent noted that this reliance was done in a good-faith effort to attest to micro entity status.

26. Based on Respondent's certifications of his patent applicant clients' eligibility for micro entity status, the clients received up to an 80% reduction on USPTO application fees.

27. Respondent's certifications of eligibility for micro entity status were incorrect.

28. In each of the fourteen (14) applications, USPTO issued a Notice of Payment Deficiency in light of Respondent's incorrect certifications of eligibility of micro entity status.

29. Respondent acknowledges that he did not always maintain adequate understanding of the underlying micro entity law/rules. Specifically, in some instances, Respondent misinterpreted the language in the USPTO's micro entity certification forms without seeking further guidance from the statutes, rules, or guidance (e.g., MPEP). For example, Respondent stated that, based on his (erroneous) interpretation of the forms, he failed to consider design applications or abandoned utility applications when contemplating application counts for micro entity purposes. In some instances, this caused him to believe micro entity certification was proper, when it was not. In other instances, Respondent was mistaken as to the effect that intended assignment of an application to certain types of entities (e.g., non-profits) had on the qualification of a given application for micro entity status, which caused him to improperly submit micro entity certifications.

30. Respondent acknowledges that his practice was incomplete and in error. He notes that in realizing his errors, he ceased relying on his incomplete understanding of the rules. Respondent maintains that he did not intend to deceive or defraud.

31. Respondent represents that he reviewed all affected matters, notified affected clients or successor counsel where appropriate, and implemented updated written procedures, including requiring application count verification, express consideration of abandoned and design

applications, and procedures for better reviewing assignment, ownership-interest and income, and entity status.

32. Respondent represents that subsequent to OED's disciplinary investigation he has thoroughly reviewed and understands the statute, rules, and USPTO guidance relating to small and micro entity certifications. He also represents that he has strengthened his operating procedures, including by requiring his clients to further provide specific documentary evidence demonstrating their entitlement to small and micro entity status before he makes such small and micro entity certifications to the Office, and putting in place written standard operating procedures regarding small and micro entity entitlement determination.

33. Further, Respondent represented to OED that he will inform his clients as to the rules regarding eligibility for small and micro entity status, including adopting standard warning language as to small and micro entity eligibility and fee assessments in his engagement materials.

Additional Considerations

34. Respondent has never been the subject of professional discipline by the USPTO, and he represents that he has not been disciplined on ethical grounds by any other jurisdiction.

35. Respondent has demonstrated genuine contrition and accepted responsibility for his acts and omissions.

36. Respondent personally, fully, and thoroughly cooperated with the Office's investigation and, as mentioned above, has implemented additional measures to prevent recurrence.

Joint Legal Conclusions

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

a) 37 C.F.R. § 11.101 (a practitioner shall provide competent representation) by, *inter alia*, (i) failing to fully research and understand the USPTO patent micro entity rules prior to making micro entity certifications to the USPTO and (ii) failing to undertake actions required to provide representation with required legal knowledge, thoroughness, and preparation reasonably necessary for the representation;

b) 37 C.F.R. § 11.103 (diligence) by, *inter alia*, (i) not conducting a reasonable inquiry under the circumstances as required by 37 C.F.R. § 11.18 prior signing and filing micro entity certifications to the USPTO, (ii) failing to have in place reasonable procedures to ensure that certifications of micro entity status complied with USPTO regulations, and (iii) presenting incorrect certifications of micro entity status to the USPTO at the time applications were filed; and

c) 37 C.F.R. § 11.804(d) (conduct prejudicial to the administration of justice, *i.e.*, conduct prejudicial to the U.S. patent examination and issuance process) by, *inter alia,* (i) not conducting a reasonable inquiry under the circumstances as required by 37 C.F.R. § 11.18 prior to signing and presenting certifications of micro entity status to the USPTO, (ii) failing to have in place adequate procedures to ensure that certifications of micro entity status complied with USPTO regulations and, instead, relying on the clients' erroneous representations, and (iii) presenting incorrect certifications of micro entity status to the USPTO at the time applications were filed.

Agreed-Upon Sanction

38. Based on the foregoing, Respondent has freely and voluntarily agreed, and it is hereby ORDERED that:

a. Respondent shall be and is publicly reprimanded;

b. 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/;

c. The OED Director shall publish a notice in the *Official Gazette* that is materially consistent with the following:

Notice of Reprimand

This notice concerns Richard R. Peters of Albuquerque, New Mexico, who is a registered patent attorney (Registration Number 61,441) and an active member in good standing of the State Bar of California (Bar Id No. 269128). The United States Patent and Trademark Office ("USPTO") Director has reprimanded Mr. Peters for violating 37 C.F.R. §§ 11.101 (failing to provide competent representation), 11.103 (failing to act with reasonable diligence in representing a client), and 11.804(d) (engaging in conduct that is prejudicial to the integrity of the U.S. patent examination and issuance process). The reprimand is predicated on Mr. Peters' violation of these provisions of the USPTO Rules of Professional Conduct in connection with the submission of incorrect Certifications of Micro Entity Status in certain patent applications. *See* 37 C.F.R. § 1.29(a)(2).

Between December 2019, and June 2023, Mr. Peters presented to the USPTO at least fourteen (14) micro entity certifications that erroneously certified the applicants as being entitled to micro entity status. In fact, these applicants were not entitled to micro entity status, nor were they entitled to the reduction of application fees afforded to micro entities. The

USPTO issued a Notice of Payment Deficiency in each of these applications.

All practitioners, including registered practitioners, should be aware that when they present any paper to the USPTO—including certifications of micro entity status—they are certifying, *inter alia*, that they have conducted an inquiry reasonable under the circumstances as to the factual assertions set forth in the paper. *See* 37 C.F.R. § 11.18(b)(2)(iii).

Registered practitioners should be reasonably aware that, as part of the USPTO's continuing efforts to mitigate threats to the U.S. patent system and to protect that system's integrity, there are statutory penalties for false assertions or certifications of small and micro entity status. *See* 35 U.S.C. §§ 41(j) and 123(f). False certifications unjustly diminish the monetary resources of the USPTO, and false certifications on petitions or requests to expedite examination result in applications being unjustly advanced out of turn.

This action is the result of a settlement agreement between Mr. Peters and the OED Director pursuant to 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 online at: https://foiadocuments.uspto.gov/oed/;

d. Nothing in the Agreement or this Final Order shall prevent the Office from considering the record of this disciplinary proceeding, including this 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 has agreed to waive all rights to seek reconsideration of this Final Order under 37 C.F.R. § 11.56, waive the right to have this Final Order reviewed under 37 C.F.R. § 11.57, and waive the right otherwise to appeal or challenge this Final Order in any manner; and

f. The parties shall each bear their own costs incurred to date and in carrying out the terms of the Agreement and this Final Order.

TRICIA CHOE Digitally signed by TRICIA CHOE
Date: 2026.09.01 08:28:10 -04'00'

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

Date

on delegated authority by

John A. Squires
Under Secretary of Commerce for Intellectual Property and
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 and email:

Mr. Richard R. Peters
3005 Marble Ave NE
Alburquerque, NM 87106
richard@inventuslaw.com
Respondent

Via email:

Sydney O. Johnson
Senior Counsel for Enrollment and Discipline Litigation
Office of the Solicitor
[redacted]

Paul Nguyen-Ba
Senior Counsel for Patent and Trademark Disciplinary Matters
Office of Enrollment and Discipline
paul.nguyen-ba@uspto.gov

9/1/2026
Date

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