

UNITED STATES PATENT AND TRADEMARK OFFICE

In the Matter of:)
)
Sanjay Bhardwaj,) Proceeding No. D2022-24
)
Respondent.)
_____)

ORDER

On May 7, 2023, Sanjay Bhardwaj (“Respondent”) filed a “Respondent’s Petition to USPTO Director for Reconsideration” (“Request for Reconsideration”). This Request followed the USPTO Director’s Final Order Pursuant to 37 C.F.R. § 11.24, dated April 11, 2023.

A Briefing Order was signed on May 12, 2023 and sent to the parties on May 15, 2023.¹ The Briefing Order directed the OED Director to respond to Respondent’s Request for Reconsideration, addressing both the authority for the Motion for Reconsideration and the substantive arguments therein, no later than May 26, 2023. Respondent was permitted to Reply to the OED Director’s Response no later than 14 days from the date of the OED Director’s Response.

OED Director filed a timely response to the Request for Reconsideration on May 24, 2023 and argued that the reconsideration is not available in a reciprocal discipline matter and, even if it were, the request to reconsider was untimely. *See* OED Director’s Response to Respondent’s Petition To Reconsider (“OED Response”) at 2-3. Alternatively, if reconsideration were available, the OED Director argued that the

¹ The OED Director filed a pleading entitled “OED Director’s Brief Response to Respondent’s Petition to Reconsider” on May 15, 2023. As it was not filed in response to the Briefing Order, it was not considered prior to issuing this Order. Only the pleadings filed in response to the Briefing Order were considered.

Request for Reconsideration is without merit as it does not satisfy the standards for granting reconsideration. *See id.* at 3-8.

Respondent filed a Reply on June 6, 2023. He argues that, regardless of the reciprocal discipline rules, he should be permitted to file reconsideration under the provisions of 37 C.F.R. § 11.2(e), which govern petitions to the USPTO Director in disciplinary matters. Reply at 2. He further argues that any reconsideration request was timely under that provision. *See id.* at 2-3. Lastly, Respondent reasserts some of the substantive arguments raised throughout the reciprocal discipline proceedings.

For the reasons set forth below, Respondent's Request for Reconsideration is denied.

Analysis and Order

The October 24, 2022 "Complaint for Reciprocal Discipline Pursuant to 37 C.F.R. §§ 11.24 and 11.34" requests that Respondent be excluded from the practice of patent, trademark, and other non-patent law before the USPTO. The Complaint alleges that Respondent violated 37 C.F.R. § 11.804(h), and is predicated upon the January 2, 2020 Order of the Supreme Court of California in State Bar Court No. 14-O-00848, disbarring Respondent from the practice of law in that jurisdiction. Thus, Respondent is charged with discipline under the regulatory framework of 37 C.F.R. § 11.24 (Reciprocal Discipline).

Unlike the USPTO's regulations that govern hearing appeals, including 37 C.F.R. § 11.56(c), the rules governing reciprocal discipline do not permit or authorize parties to file motions for reconsiderations. *See In re Rheinstein*, Proceeding No. D2021-06, at 12 ¶ 38 (USPTO July 22, 2022). Without a specific provision for motions for reconsideration in the regulation governing reciprocal discipline, 37 C.F.R. § 11.24, there is no express

authority to provide Respondent with the relief he seeks. *See Crediford v. Shulkin*, 877 F.3d 1040, 1047 (Fed. Cir. 2017) (“[A]n agency is bound by its own regulations.” (alteration in original) (citation omitted)). Despite his attempt to salvage his request for reconsideration by claiming he should be permitted to file for reconsideration pursuant to 37 C.F.R. § 11.2(e), that provision simply does not apply here. First, there is no underlying petition at issue here and to review pursuant to § 11.2(e). This matter was filed pursuant to, and is processed according to, the regulatory framework for reciprocal discipline and that framework does not allow for requests for reconsideration.

Since there is no provision providing for reconsideration under the reciprocal discipline regulatory framework, there is no need to address the remaining arguments.

Therefore, the Respondent’s Request for Reconsideration of the April 11, 2023 Final Order is **DENIED**.

IT IS SO ORDERED.

Date

Users, Digitally signed by Users,
Berdan, David
Berdan, David Date: 2023.06.23 14:20:34
-04'00'

David Berdan
General Counsel
Office of the 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

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Order was mailed by first-class certified mail, return receipt requested, on this day to the Respondent at the most recent address provided to the OED Director pursuant to 37 C.F.R. § 11.11(a):

Mr. Sanjay Bhardwaj



and to where the OED Director reasonably believes Respondent receives mail:

Mr. Sanjay Bhardwaj
Law Offices of Sanjay Bhardwaj
2030 Laurel Canyon Court
Fremont, California 94539-5974

And to the OED Director via email at:

SO-OEDcases@uspto.gov
Counsel for OED Director

6/23/2023
Date


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