

**BEFORE THE UNDER SECRETARY OF COMMERCE
FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE
UNITED STATES PATENT AND TRADEMARK OFFICE**

In Re: [REDACTED]
[REDACTED]

)
)
) Decision on Petition
) Pursuant to 37 C.F.R. § 11.2(d)
)
)

MEMORANDUM AND ORDER

[REDACTED] (“Petitioner”) seeks review of the final decision of the Acting Director of the Office of Enrollment and Discipline (“Acting OED Director”) dated April 17, 2025, denying Petitioner’s application to sit for the registration examination. (Ex. 1). In that decision, the Acting OED Director found that Petitioner had not met his burden of establishing that he presently possesses the scientific and technical qualifications necessary for him to render applicants valuable service, as required by 37 C.F.R. § 11.7. (Ex. 1). Petitioner submitted a letter to the Acting Director of the U.S. Patent and Trademark Office (“Acting USPTO Director”) dated April 28, 2025, formally appealing the decision of the Acting OED Director denying Petitioner’s application for admission to the registration examination under Category A. (“Petition”) (Ex. 2). For reasons set forth herein, the Petition is denied and the decision of the Acting OED Director is affirmed.

I. BACKGROUND

No individual will be registered to practice before the U.S. Patent and Trademark Office (“USPTO” or “Office”) unless he or she has applied to the USPTO Director in writing by completing an application for registration and establishing to the Acting OED Director’s satisfaction that he or she meets all of the requirements to practice in patent

matters before the Office. *See* 37 C.F.R. § 11.7. Among the showings an applicant must make is that he possesses the “legal, scientific, and technical qualifications necessary for him or her to render applicants valuable service.” 37 C.F.R. § 11.7(a)(2)(ii). An individual failing to file a complete application for registration will not be admitted to the examination and will be notified of the incompleteness. *See* 37 C.F.R. § 11.7(b)(3).

Petitioner’s Application

Petitioner filed an “Application For Registration To Practice Before the United States Patent and Trademark Office” on January 31, 2025. (Ex. 3).

On February 12, 2025, OED staff issued a “Notice of Incompleteness and Denial of Admission.” (Ex. 4). This notice concluded that Petitioner’s application was incomplete because it was missing official transcripts and course descriptions, and thus Petitioner’s admission to the examination was denied. (Ex. 4). The denial was predicated on Petitioner lacking the scientific and technical training qualifications required under § 11.7. (Ex. 4). Specifically, the notice stated that Petitioner’s degree was not one that is listed in Category A. (Ex. 4).

On February 13, 2025, Petitioner responded to the Notice of Incompleteness and Denial of Admission by submitting an official transcript indicating that he had been awarded a Master of Science in Applied Artificial Intelligence (MS-AAI) from the University of [REDACTED] on [REDACTED]. (Ex. 5).

Acting OED Director’s Decision

On February 24, 2025, Petitioner then sought the Acting OED Director’s review of the determination to deny his admission to the examination on the basis of an incomplete examination, pursuant to 37 C.F.R. § 11.2(c). (Ex. 6). In his petition,

Petitioner asserted that his academic training as a “candidate[] with Artificial Intelligence degrees . . . clearly meets the scientific and technical expertise the USPTO seeks to foster within the patent bar” and thus should be recognized as qualifying credentials under Category A. (Ex. 6). Petitioner also provided copies of the related course descriptions for an MS-AAI from the [REDACTED] University of [REDACTED] course catalogue. (Ex. 6, Attachment).

On April 17, 2025, the Acting OED Director denied applicant’s petition for failing to possess a Bachelor’s Degree, Master’s Degree, or Doctor of Philosophy Degree in one of 46 recognized scientific or technical subjects under Category A. (Ex. 1). Because Petitioner did not have a degree in a Category A subject, it was determined that Petitioner did not qualify under Category A. (Ex. 1). In addition, the Acting OED Director determined that Petitioner did not establish possession of sufficient training and expertise in science or engineering to be equivalent to that of a bachelor’s, master’s, or doctor of philosophy degree in a subject listed in Category A. (Ex. 1). Although the Acting OED Director acknowledged that other factors are considered on a case-by-case basis with respect to scientific and technical training, she noted that applicants must provide objective evidence demonstrating that training is equivalent to training received in courses accepted under Category A to establish such equivalency. (Ex. 1). Noting that Petitioner did not “demonstrate[] any such scope in his own background that could be regarded as equivalent to training received in courses accepted under Category A,” the Acting OED Director concluded that Petitioner “failed to offer sufficient objective evidence that he has the length and breadth of training that a person would receive for a

Bachelor's, Master's or Doctor of Philosophy degree in one of the subjects listed in Category A." (Ex. 1).

On April 28, 2025, Petitioner filed the instant Petition, seeking reconsideration by the USPTO Director of the Acting OED Director's decision, pursuant to 37 C.F.R. § 11.2(d). (Ex. 2). Petitioner requests reconsideration based on clarifying information regarding the technical nature of his educational credentials. (Ex. 2). He asserts that his MS-AAI degree from the University of [REDACTED] qualifies as sufficient scientific and technical training under Category A. (Ex. 2). Specifically, he argues that the curriculum of the MS-AAI program "focuses on machine learning, neural networks, engineering, and programming – all technical subjects essential to advanced studies in computer science, and artificial intelligence." (Ex. 2). As support, Petitioner provides a letter and Supplemental Curriculum Overview from [REDACTED] [REDACTED] Program Director of the MS-AAI program. (Ex. 2). Based on this additional support, Petitioner requests that the USPTO recognize the MS-AAI degree as qualifying scientific and technical training under Category A, allow his application to be approved, and permit him to sit for the registration examination. (Ex. 2). As discussed below, however, these showings are insufficient to overturn the Acting OED Director's determination.

II. DISCUSSION

Congress has "delegated plenary authority over PTO practice . . . to the Office." *Hsuan-Yeh Chang v. Kappos*, 890 F.Supp.2d 110, 116 (D.D.C. 2012); *Leeds v. Mosbacher*, 732 F. Supp. 198, 200 (D.D.C. 1990); *Premysler v. Lehman*, 71 F.3d 387, 389 (Fed. Cir. 1995) ("Title 35 vests the [Director of the USPTO] . . . with the responsibility to protect [US]PTO proceedings from unqualified practitioners."). This includes the "broad authority to govern . . . the recognition and conduct of attorneys" who practice before the Office. *Chang*, 890 F.Supp.2d at 116 (quoting

Lacavera v. Dudas, 441 F.3d 1380, 1383 (Fed.Cir.2006)). The provisions at 35 U.S.C. §

2(b)(2)(D) states that the Director may establish regulations which:

may govern the recognition and conduct of agents, attorneys, or other persons representing applicants or other parties before the Office, and may require them, before being recognized as representatives of applicants or other persons, to show that they are of good moral character and reputation and are possessed of the necessary qualifications to render to applicants or other persons valuable service, advice, and assistance in the presentation or prosecution of their applications or other business before the Office.

Pursuant to this authority, the USPTO promulgated 37 C.F.R. § 11.7, which states that “[n]o individual will be registered to practice before the Office unless he or he has . . . [a]ppplied to the USPTO Director in writing by completing an application for registration form” and established to the OED Director’s satisfaction that he or he meets all of the requirements to practice before the Office. 37 C.F.R. § 11.7(a)(1) and (a)(2). Among the showings that applicants must make is that he or he possesses the “legal, scientific, and technical qualifications necessary for him or her to render applicants valuable service.” 37 C.F.R. § 11.7(a)(2)(ii). *See also Premysler*, 71 F.3d at 389-90.

The USPTO General Requirements Bulletin for Admission to the Examination for Registration to Practice in Patent Cases Before the United States Patent and Trademark Office (issued in January 2025) (“GRB”) is a USPTO publication that sets forth guidance for complying with the provisions of 37 C.F.R. § 11.7 and describes the kinds of credentials that typically demonstrate technical competence for admission to the examination under 37 C.F.R. § 11.7(a)(2)(ii). (Ex. 7). The GRB is not dispositive of determining whether an applicant may sit for the USPTO examination and thus is not subject to the rulemaking procedures under 5 U.S.C. § 553. *See Premysler*, 71 F.3d at 390. However, the GRB has been held to reasonably interpret qualification requirements. *See Lacavera v. Dudas*, 441 F.3d 1380, 1383 (Fed. Cir. 2006)

(finding that the GRB “reasonably interprets” the previous version of § 11.9); *Premysler*, 71 F.3d at 389-90 (finding that the USPTO could rely on the GRB as guidance for what kinds of credentials typically demonstrate “technical competence” under an agency regulation prohibiting the USPTO from registering an individual to practice before it unless he is “possessed of the legal, scientific, and technical qualifications necessary to enable him or his to render applicants for patents valuable service”).

The GRB identifies three categories (A, B, and C) by which an applicant may establish that he or she meets the requirements of 37 C.F.R. § 11.7(a)(2)(ii). (Ex. 7 at 3-9). Category A requires a Bachelor’s Degree, Master’s Degree or Doctor of Philosophy Degree in one of 46 recognized scientific or technical subjects or their equivalent. (Ex. 7 at 3-4). The GRB recites other factors that will also be considered on a case-by-case basis with respect to scientific and technical training, such as “expertise in scientific and technical training which is equivalent to that of a bachelor’s, master’s or doctor of philosophy degree in a subject listed in Category A.” (Ex. 7 at 7). “Objective evidence demonstrating that training is equivalent to training received in courses accepted under Category A may establish such equivalency.” (Ex. 7 at 7). The GRB provides clarification of how equivalency may be established, explaining that “[t]he Office will accept degrees where the transcript demonstrates equivalence to a Category A degree (for example, molecular cell biology may be equivalent to biology and materials science and engineering may be equivalent to materials science).” (Ex. 7 at 4). Applicants bear the burden of showing the requisite scientific and technical training. *See* 37 C.F.R. § 11.7(b)(1)(i)(C); (Ex. 7 at 3, 7).

A party dissatisfied with a final decision of the Acting OED Director regarding enrollment or recognition may seek review of that decision upon Petition to the USPTO Director,

accompanied by payment of the appropriate fee. *See* 37 C.F.R. § 11.2(d). The decision may be overturned only where the deciding official had abused her discretion in denying a petitioner's application. *See Premysler*, 71 F.3d at 389 (*citing Gager v. Ladd*, 212 F. Supp 671, 673 (D.D.C. 1963)).

Here, Petitioner requests reversal of the Acting OED Director's decision to deny his application for admission to take the examination for registration to practice in patent matters before the Office. Petitioner argues that the technical nature and content of his MS-AAI degree program satisfies the requirements under Category A, and requests recognition that his degree is sufficient scientific and technical training under Category A. Petitioner, however, does not present any evidence to disturb the Acting OED Director's conclusion that Petitioner does not currently possess the legal, scientific, and technical qualifications necessary to approve his application for admission to the registration examination. Rather, the record before the Acting OED Director supports the Acting OED Director's decision.

Petitioner has the burden of proving that he possesses the required scientific and technical qualifications under Category A, however Petitioner fails to satisfy that burden. Petitioner holds a Master of Science in Applied Artificial Intelligence from the University of [REDACTED] and is requesting recognition that his degree is sufficient scientific and technical training under Category A. (Ex. 2). However, Applied Artificial Intelligence is not a scientific or technical subject listed under Category A. (Ex. 7 at 3-4). Thus, Petitioner's degree is, on its face, not eligible under Category A. The USPTO recognizes that there may be degrees that are equivalent to one of the 46 scientific or technical subjects listed under Category A. However, Petitioner's degree in Applied Artificial Intelligence does not have an equivalent degree among the 46 scientific or technical subjects listed under Category A, and Petitioner has not put forth any

evidence that demonstrates otherwise. Petitioner's submission of a Supplemental Curriculum Overview from [REDACTED] provides further information into the content and breadth of Petitioner's degree, but it does not show objective evidence that demonstrates that training in Applied Artificial Intelligence is equivalent to training received in one of the 46 degrees accepted under Category A. (Ex. 2). Thus, Petitioner's has not shown that his master's degree in Applied Artificial Intelligence is equivalent to any of the degrees listed under Category A.

In 2021, the USPTO evaluated qualifying training to identify additional degrees to expand Category A as part of a request for comments on a proposal to change the criteria for sitting for the registration examination. See *"Request for Comments on Administrative Updates to the General Requirements Bulletin for Admission to the Examination for Registration to Practice in Patent Cases Before the United States Patent and Trademark Office,"* 86 FR 15467 (March 23, 2021). Based on the USPTO's analysis and comments received, the Office did not include Applied Artificial Intelligence as an acceptable degree under Category A.¹ See *"Administrative Updates to the General Requirements Bulletin for Admission to the Examination for Registration To Practice in Patent Cases Before the United States Patent and Trademark Office,"* 86 FR 52652 (Sept. 22, 2021).

Consequently, the Acting OED Director was within her discretion to deny Petitioner's request that his Master of Science in Applied Artificial Intelligence from the University of [REDACTED] [REDACTED] qualifies as sufficient scientific and technical training under Category A.

¹ The USPTO continually evaluates the list of typically qualifying training that is set forth in the GRB, and, as stated in a May 16, 2023 notice, the USPTO will continue to collect and analyze data on potential additional Category A degrees on a three-year cycle. See *"Expanding Admission Criteria for Registration To Practice in Patent Cases Before the United States Patent and Trademark Office,"* 88 FR 31249 (May 16, 2023).

III. CONCLUSION

The Petition for review of Acting OED Director's decision dated April 17, 2025, is denied. Petitioner has not shown that he currently possesses the requisite technical and scientific qualifications within the meaning of 37 C.F.R. § 11.7. The Acting OED Director considered the administrative record and appropriately denied the Petitioner's application for registration to practice before the Office in patent matters and her decision is Affirmed.

ORDER

Upon consideration of the Petition to the USPTO Director for review under 37 C.F.R. § 11.2(d), it is ORDERED that the Petition is DENIED. The Acting OED Director's April 17, 2025 decision is Affirmed.

6/13/25
Date



Nicholas Matich
Acting General Counsel
Office of the General Counsel
United States Patent and Trademark Office

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