

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

In the Matter of)	
)	
Jing Wang,)	Proceeding No. D2023-38
)	
Respondent)	
_____)	

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 Jing Wang (“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 for the parties’ stipulated facts, legal conclusions, and sanctions.

Jurisdiction

1. Respondent is an attorney licensed to practice in California and is currently in good standing. As such, she is authorized to practice before the USPTO in trademark and other non-patent matters. *See* 37 C.F.R. § 11.14(a).
2. At all times relevant hereto, Respondent was engaged in practice before the Office in trademark matters and subject 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.

Background

The U.S. Counsel Rule

4. Effective August 3, 2019, any foreign-domiciled trademark applicant or registrant must be represented before the USPTO by an attorney who is licensed to practice law in the United States. *See* 37 C.F.R. § 2.11(a); *see also Requirement of U.S. Licensed Attorney for Foreign Trademark Applicants and Registrants*, 84 Fed. Reg. 31498 (July 2, 2019) (“the U.S. Counsel Rule”).

5. In part, the U.S. Counsel Rule was intended to (1) increase compliance with U.S. trademark law and USPTO regulations, (2) improve the accuracy of trademark submissions to the USPTO, and (3) safeguard the integrity of the U.S. trademark register. *See* 84 Fed. Reg. 31498.

USPTO Signature Rules for Trademark Matters

6. The USPTO trademark signature rules require that: (a) all signatures on trademark documents be signed by a proper person; (b) trademark documents be personally signed by the signatory named on the document; and (c) a person electronically signing a document must personally enter any combination of letters, numbers, spaces, and/or punctuation marks that she or she has adopted as a signature and that combination be placed between two forward slash (“/”) symbols in the signature block on the electronic submission. *See* 37 C.F.R. §§ 2.193(a), (c), and (e); and 37 C.F.R. § 11.18(a).

7. The Trademark Manual of Examining Procedure (“TMEP”) provides additional clear and straightforward guidance to practitioners regarding the USPTO trademark electronic signature rules’ requirement that the named signatory sign the document:

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.

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.

TMEP § 611.01(c) (case citations omitted) (line spacing added).

8. If the signature on a trademark application or other submission fails to comply with 37 C.F.R. § 2.193(a) or (e) because it was entered by someone other than the named signatory or not signed by a proper person, then the submission is improperly executed, cannot be relied upon to support registration, and normally renders the application void. *See* 84 Fed. Reg. at 31498 (stating that “[i]f signed by a person determined to be an improper person, the registration may be invalid.”). *See also In re Yusha Zhang*, 2021 TTAB LEXIS 465, *10, *13 (Dir. USPTO Dec. 10,

2021); *In re Dermahose Inc.*, 82 USPQ2d 1793 (TTAB 2007); *Ex parte Hipkins*, 20 USPQ2d 1694, 1696-97 (BPAI 1991); *In re Cowan*, 18 USPQ2d 1407, 1409 (Comm'r Pats. 1990). When trademark filings are impermissibly signed and filed with the USPTO, the integrity of the federal trademark registration process is adversely affected.

Certifications to the USPTO when Presenting Papers

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

10. The 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).

11. Accordingly, a practitioner who presents any paper to the USPTO 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).

Joint Stipulated Facts

Background

12. Respondent is an attorney who became licensed to practice in the State of California on January 31, 2014.

13. Respondent is a sole practitioner at the law firm Kingswood Law, P.C. located in Brea, California.

14. Since at least November 2020, Respondent worked with two foreign-based entities to file trademark applications. Respondent identified the foreign-based entities as (a) Shijiazhuang jiesuan Dianzi Youxiangongsi and (b) Su Linn.

Respondent's Lack of Competence, Lack of Diligence, Misrepresentation, and Conduct Adversely Affecting the Integrity of the Federal Trademark Registration System

15. As a result of Respondent's referral arrangements with Shijiazhuang jiesuan Dianzi Youxiangongsi and Su Linn, Respondent was identified as attorney of record on over 15,000 trademark applications filed with the USPTO between November 2020 and February 2023.

16. The peak of Respondent's activity was in December 2021 and April 2022; she filed over 1,200 applications in both of those months alone.

17. Respondent indicated that Shijiazhuang jiesuan Dianzi Youxiangongsi and Su Linn were primarily responsible for communicating with the trademark applicants and for preparing the trademark documents for Respondent's review prior to filing. Respondent indicated that she only communicated directly with the trademark applicants if the applicant had concerns about the filed application.

18. Based on the information in the USPTO electronic filing system and Respondent's statements to the USPTO's Office of Enrollment and Discipline ("OED"), Respondent routinely spent between three (3) and (5) minutes reviewing, signing, and filing each trademark application.

19. Respondent acknowledges that for at least 142 trademark applications, she violated the agency's signature rule when Shijiazhuang jiesuan Dianzi Youxiangongsi and Su Linn signed her name to the oaths in the applications.

Respondent's Submission of Trademark Applications for "SWAROVSKI" based on incorrect information about Ownership of the Mark

20. Respondent submitted two trademark applications with the USPTO (App. Nos. 97473712 and 97430974) for the mark "SWAROVSKI."

21. In each application, Respondent signed a declaration, signed under penalty of criminal perjury, making factual assertions about the owner of the mark, including "[t]he signatory believes that the applicant is the owner of the trademark/service mark sought to be registered."

22. In one application, Respondent indicated that she was the attorney for the true owner of the trademark, "Swarovski Aktiengesellschaft." This was incorrect.

23. When Swarovski Aktiengesellschaft, the real owner of the SWAROVSKI mark, learned of Respondent's filing of the applications, its counsel submitted a petition asserting that it is the owner of two registered trademarks for the mark "SWAROVSKI" and that it was never represented by Respondent. The petition requested that App. No. 97473712 be terminated and that App. No. 97430974 be terminated and/or redacted. The petitioner provided evidence in the form of a verified statement asserting that App. No. 97473712 was filed without petitioner's authority and bears the signature of an attorney that was not authorized to represent petitioner.

24. The USPTO granted the petition in part. The USPTO noted “Although U.S. Application Serial No. 97473712 application will remain of record, the owner name will be redacted. To address petitioner’s concerns about the party who filed the application, information about the application will be forwarded to the Register Protection Office for further review to determine whether sanctions are appropriate in this case.” The USPTO further noted, “U.S. Application Serial No. 97430974 will remain of record. Petitioner may pursue other appropriate avenues for relief if it believes it will be harmed by that application.”

25. Respondent stated to OED that, with respect to the SWAROVSKI applications, she relied on the involved foreign-based entity (*i.e.*, either Shijiazhuang jiesuan Dianzi Youxiangongsi or Su Linn) to communicate with the trademark applicant. Respondent further stated that her research did not turn up any other product using the SWAROVSKI mark in the product categories listed in the application, which were clothing categories. Respondent also said she was not familiar with the SWAROVSKI brand and believed that the filing was appropriate because SWAROVSKI’s mark for jewelry does not preclude a mark for clothing as they are distinct categories.

26. The Trademark Electronic Search System (“TESS”) is a publicly available, free search engine on the USPTO’s website that allows the public to easily and immediately search the USPTO’s database of registered trademarks and prior pending applications to find marks that may prevent registration due, for example, to a mark already being used or owned by another person or entity (*e.g.*, a so-called “likelihood of confusion” issue).

27. A TESS “Basic Word Mark Search (New User)” search conducted by OED revealed numerous entries for the word mark “SWAROVSKI.”

28. At least one entry that was locatable via a TESS search includes the registered mark “SWAROVSKI” owned by Swarovski Aktiengesellschaft, which includes numerous identical or similar apparel product categories as those listed in the applications Respondent submitted.

29. In connection with these two applications, Respondent acknowledges that she failed to conduct an inquiry as requested by 37 C.F.R § 11.18. Respondent represents that though she made mistakes in the submission of applications, but she never intended to submit a false or misleading application on behalf of Swarovski Aktiengesellschaft.

30. Respondent acknowledges that her acts and omissions that led to the filing and granting of Swarovski Aktiengesellschaft’s petition caused harm to Swarovski Aktiengesellschaft and caused the USPTO to spend resources addressing the petition it would not otherwise have had to spend.

Additional Considerations

31. Respondent has acknowledged her mistakes and lack of attention to detail.

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

33. Respondent represents that she ended her relationship with Shijiazhuang jiesuan Dianzi Youxiangongsi and Su Linn prior to being contacted by OED.

34. Respondent represents that has not filed any trademark applications since March 2023.

35. Respondent represents that she does not intend to engage in trademark practice in the future.

Joint Legal Conclusions

36. 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 (practitioner shall provide competent representation) by, *inter alia* (i) reviewing and filing trademark applications for clients with unreasonable rapidity and swiftness such that she did not exercise appropriate thoroughness in handling clients' trademark matters, (ii) not following the requirements of the U.S. Counsel Rule or 37 C.F.R. § 11.18, and (iii) submitting information to the USPTO incorrectly stating that she represented the owner "Swarovski Aktiengesellschaft" in connection with her handling of the "SWAROVSKI" applications for a client based upon representations of her client;
- b. 37 C.F.R. § 11.103 (not acting with reasonable diligence in representing a client) by, *inter alia*, by (i) failing to devote sufficient time to client matters, failing to take reasonable steps to ensure that her clients' trademark application forms were reviewed and filed in accordance with the U.S. Counsel Rule, and spending inadequate time reviewing trademark applications as required by 37 C.F.R. § 11.18 prior to presenting the applications to the USPTO, and (ii) submitting information to the USPTO incorrectly stating that she represented the owner "Swarovski Aktiengesellschaft" in connection with her handling of the "SWAROVSKI" applications for a client based upon representations of her client;
- c. 37 C.F.R. § 11.804(c) (engaging in conduct involving misrepresentation) by, *inter alia*, (i) signing trademark declarations attesting that she had engaged in an inquiry reasonable under the circumstances to support the factual assertions in the applications when, in fact, she spent inadequate time reviewing trademark applications as required by 37 C.F.R. § 11.18 prior to presenting the trademark applications to the USPTO, (ii) authorizing foreign-based entities to enter Respondent's signature on 142 trademark applications, and (iii) submitting information to the USPTO falsely stating that she represented the owner "Swarovski Aktiengesellschaft" in connection with her handling of the "SWAROVSKI" applications for a client based upon representations of her client; and
- d. 37 C.F.R. § 11.804(d) (engaging in conduct prejudicial to the administration of the USPTO trademark registration system) by, *inter alia*, (i) signing trademark declarations attesting that she had engaged in an inquiry reasonable under the circumstances to support the factual assertions in the applications when, in fact, she spent inadequate time reviewing trademark applications as required by 37 C.F.R. § 11.18 prior to presenting the trademark applications to the USPTO, (ii) authorizing foreign-based entities to enter Respondent's

signature on 142 trademark applications, and (iii) submitting information to the USPTO falsely stating that she represented the owner “Swarovski Aktiengesellschaft” in connection with her handling of the “SWAROVSKI” applications for a client.

Agreed-Upon Sanction

37. Respondent has freely and voluntarily agreed, and it is hereby ORDERED that:
- a. Respondent is suspended from practice before the Office for a period of ninety (90) days, commencing on the date this Final Order is signed;
 - b. Respondent is to remain suspended from practice before the USPTO until the OED Director grants a petition requesting Respondent’s reinstatement pursuant to 37 C.F.R. § 11.60;
 - c. Respondent shall comply fully with 37 C.F.R. § 11.58;
 - d. Respondent may satisfy her obligations under 37 C.F.R. § 11.58(c)(3)(i) for those clients who are domiciled in a foreign country and have immediate or prospective business before the Office in patent, trademark, or other non-patent matters (*e.g.*, trademark applicants, parties before the USPTO Trademark Trial and Appeal Board, patent applicants, parties before the USPTO Patent Trial and Appeal Board, et al.) by emailing, in the client’s native language, the requisite 37 C.F.R. § 11.58 notices and information (including a copy of the Final Order that has been correctly translated into the client's native language) to:
 1. the email address for each client and, if applicable, the email address as set forth in the “Applicant’s Information” portion of each client’s trademark application, but only if such email address is an email address belonging to the client and one that Respondent reasonably believes to which the client has direct access (*i.e.*, not the email address belonging to a foreign referring entity);
 2. an email address belonging to the client and one that Respondent reasonably believes to which the client has direct access (*i.e.*, not the email address belonging to a foreign-domiciled third person or a foreign domiciled entity who referred the matter to Respondent); or
 3. the foreign-domiciled third person or a foreign-domiciled entity who referred the matter to Respondent, but only if:
 - A. Respondent takes reasonable measures to ensure that the foreign-domiciled third person or a foreign-domiciled entity thereafter promptly forwards Respondent’s email to the client with the translated Final Order attached and Respondent is copied on the forwarded email;

- B. Respondent takes reasonable measures to learn from the foreign-domiciled third person or a foreign-domiciled entity that the client actually received the Respondent's email and translated Final Order forwarded to the client;
 - C. Respondent's affidavit submitted pursuant to 37 C.F.R. § 11.58(d) sets forth the details of her reasonable measures that are required by subparagraphs (3)(i) and (ii) immediately above; and
 - D. any petition for reinstatement filed by or on behalf of Respondent sets forth the details of her reasonable measures that are required by subparagraphs (3)(i) and (ii) immediately above;
- e. Respondent shall be granted limited recognition pursuant to 37 C.F.R. § 11.58(f) for thirty (30) days starting on the date of the Final Order approving the Agreement so that Respondent may endeavor to conclude work on behalf of clients on any matters pending before the Office and, if such work cannot be concluded within such thirty (30) days, Respondent shall so advise each such client so that the client may make other arrangements;
 - f. Effective the date of the expiration of the 30-day period of limited recognition afforded to Respondent under 37 C.F.R. § 11.58(f) the USPTO is hereby authorized to disable or suspend any USPTO.gov accounts registered to Respondent as of the date of the Final Order approving the Agreement (including all accounts that Respondent has ever established, sponsored, used in connection with any trademark matter);
 - g. Respondent shall not apply for a USPTO verified Electronic System account, shall not obtain a USPTO verified Electronic System account, nor shall she have her name added to a USPTO verified Electronic System account, unless and until she is reinstated to practice before the USPTO;
 - h. Immediately upon expiration of the 30-day period of limited recognition afforded to Respondent under § 11.58(f), Respondent is prohibited from using, assessing, or assisting others in using or accessing any USPTO.gov account(s) or other USPTO filing systems for preparing or filing documents with the USPTO;
 - i. Until a petition seeking Respondent's reinstatement to practice before the USPTO is granted pursuant to 37 C.F.R. § 11.60, Respondent shall be prohibited, and the USPTO is authorized to disallow Respondent, from the following: (1) opening or activating any USPTO.gov account(s) to be used for preparing or filing documents with the USPTO; (2) applying for, or attempting to apply for any USPTO.gov account(s) to be used for preparing or filing documents with the USPTO; (3) verifying, or attempting to verify, any other person's credentials in connection with USPTO.gov account(s) to be used for preparing or filing documents with the USPTO; and (4) sponsoring or attempting to sponsor USPTO.gov account(s) to be used for preparing or filing documents with the USPTO;

- j. Nothing herein shall obligate the USPTO to take action, *sua sponte*, to re-activate any USPTO.gov account disabled or suspended pursuant to this order; rather, it is Respondent's sole responsibility to initiate any such re-activation of any such USPTO.gov account;
- k. Respondent, within twenty-one (21) days of the date of this Final Order, shall send a letter to the USPTO Office of Trademark Examination Policy that lists all applications and other trademark documents on which Respondent is the named signatory but where Respondent did not sign the application or document. The list is to include, but not necessarily be limited to, the 142 trademark applications that Shijiazhuang jiesuan Dianzi Youxiangongsi and Su Linn signed her name to the oaths in the applications. For each such application and trademark document, Respondent shall state the type of document (*e.g.*, application, statement of use, response to Office action), the filing date of the document, and the associated application serial number or trademark registration number. The list shall be accompanied by a declaration, affidavit, or statement in compliance with 28 U.S.C. § 1746 signed by Respondent stating that she did not sign the application or document;
- l. Respondent shall cooperate fully with the USPTO in any present or future USPTO inquiry made into improper filings by Shijiazhuang jiesuan Dianzi Youxiangongsi, Su Linn, or any foreign associates with whom Respondent have worked in connection with trademark documents submitted to the USPTO.
- m. Respondent shall serve a probationary period that commences on the date this Final Order is signed and ends twelve (12) months after the date this Final Order is signed;
- n. If a petition seeking Respondent's reinstatement to practice before the USPTO is granted, as a condition of being reinstated to practice before the USPTO, the Respondent shall serve a secondary probationary period of twelve (12) months that commences on the date of the decision granting a petition seeking Respondent's reinstatement to practice before the USPTO;
- o. (1) If the OED Director is of the good faith opinion that Respondent, during Respondent's probationary period (including the second probation period upon reinstatement, if applicable), failed to comply with any provision of the Final Order (including compliance with 37 C.F.R. § 11.58), 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 an additional nine (9) 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 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 nine (9) months for the violations set forth in the Joint Legal Conclusions above;

- p. 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;
- q. In the event the Respondent seeks a review of any action taken pursuant to subparagraph o., above, such review shall not operate to postpone or otherwise hold in abeyance the suspension;
- r. While Respondent is on probation (including the second probation period upon reinstatement, if applicable), Respondent shall, at least on a monthly basis, (i) search the USPTO Trademark Electronic Search System ("TESS") or the agency's trademark electronic search system that replaces TESS, for applications identifying her as the attorney of record; and (ii) promptly inform in writing the USPTO Office of Trademark Examination Policy of each trademark document filing identifying her as the attorney of record that was made without her knowledge or consent;
- s. While Respondent is on probation (including the second probation period upon reinstatement, if applicable), Respondent shall, at least on a quarterly basis, submit a written report to the OED Director stating that she has completed the monthly searches of the USPTO TESS (or the agency's trademark electronic search system replacing TESS) database, and, as applicable, (i) stating that she identified no applications or other trademark filing in which she was named as the attorney of record that were not made by her or without her knowledge and consent; or (ii) providing copies of correspondence sent to the USPTO Office of Trademark Examination Policy as described in the preceding subparagraph;
- t. As a condition of being reinstated to practice before the USPTO, Respondent shall provide to the OED Director a declaration, affidavit, or statement in compliance with 28 U.S.C. § 1746 signed by Respondent stating that she has successfully completed six (6) hours of continuing legal education credit on ethics/professional responsibility;
- u. As a condition of being reinstated, Respondent shall provide to the OED Director a declaration, affidavit, or statement in compliance with 28 U.S.C. § 1746 signed by

Respondent stating that she has reviewed thoroughly all provisions of the Trademark Manual of Examining Procedure, including but not limited to, the provisions of the USPTO's signature requirements;

- v. Nothing herein 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 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; and/or (3) in connection with any request for reconsideration submitted by Respondent pursuant to 37 C.F.R. § 11.60;
- w. The OED Director 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/>;
- x. The OED Director shall publish a notice in the Official Gazette that is materially consistent with the following:

Notice of Suspension and Probation

This notice concerns Ms. Jing Wang of Brea, California, an attorney licensed in the State of California who engaged in practice before the United States Patent and Trademark Office ("USPTO") or "Office") in trademark matters. The USPTO Director has suspended Ms. Wang from practice before the Office for a period of ninety (90) days and placed her on probation for violating 37 C.F.R. §§ 11.101, 11.103, 11.804(c), and 11.804(d) of the USPTO Rules of Professional Conduct.

Between November 2020 and February 2023, Ms. Wang served as attorney of record for a large volume of foreign-domiciled trademark applicants pursuant to the agency's U.S. Counsel Rule (see *Requirement of U.S. Licensed Attorney for Foreign Trademark Applicants and Registrants*, 84 Fed. Reg. 31498 (July 2, 2019)). Ms. Wang worked with two foreign-based entities —Shijiazhuang jiesuan Dianzi Youxiangongsi and Su Linn— and served as attorney of record on over 15,000 trademark applications. Ms. Wang agreed to an arrangement where the foreign-based entities were primarily responsible for communicating with the trademark applicants and for preparing the trademark documents for Ms. Wang's review prior to filing, Ms. Wang indicated that she only communicated directly with the trademark applicants if the applicant had concerns about the filed application. Ms. Wang acknowledged that she lacked competence in representing trademark applicants before the USPTO and did not exercise appropriate thoroughness in reviewing the trademark applications she received that Shijiazhuang jiesuan Dianzi Youxiangongsi and Su Linn in violation of her obligations under the U.S. Counsel Rule and under 37 C.F.R. § 11.18 when presenting

documents to the USPTO. Foreign-based entities also signed her name on 142 trademark applications, in violation of the agency's trademark signature rules, which actually or potentially harmed her clients' respective trademark rights. Finally, Ms. Wang submitted two trademark applications with the USPTO for the mark "SWAROVSKI," indicating in at least one instance that she represented the owner of the trademark, "Swarovski Aktiengesellschaft," when, in fact, she was mistaken. Ms. Wang represents that she has ended her relationship with Shijiazhuang jiesuan Dianzi Youxiangongsi and Su Linn prior to being contacted by OED, and that she does not intend to engage in trademark work in the future.

Ms. Wang has not been previously disciplined by the USPTO, and she represents that she has never been the subject of professional discipline by any court or state bar. She represents that she now understands, and has expressed contrition for, her prior lack of understanding of the duties to trademark applicants and to the Office under the USPTO Rules of Professional Conduct.

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. (See www.uspto.gov/trademarks). The agency publishes online and regularly updates its Trademark Manual of Examining Procedure ("TMEP"). (See tmepl.uspto.gov/RDMS/TMEP/current). The TMEP provides trademark practitioners, inter alia, with a reference work on the practices and procedures relative to prosecution of applications to register marks in the USPTO. The TMEP provides unambiguous information about the agency's signature requirements at TMEP § 611.01(c) (stating, in part, "All documents must be personally signed or bear an electronic signature that was personally entered by the named signatory"). 37 C.F.R. § 2.193(a)(1), (c)(1). Another person (e.g., paralegal, legal assistant, secretary) may not sign or enter the name of an attorney or other authorized signatory. *See In re Dermahose Inc.*, 82 USPQ2d 1793 (TTAB 2007); *In re Cowan*, 18 USPQ2d 1407 (Comm'r Pats. 1990)." (parenthesis in original)). When trademark filings are impermissibly signed and filed with the USPTO, the integrity of the federal trademark registration process is adversely affected. Therefore, practitioners who represent applicants, registrants, or others before the USPTO in trademark matters — including those who serve as U.S. counsel for foreign-domiciled clients — are reasonably expected to know (a) the laws, rules, regulations, and procedures pertaining to their representation of their trademark clients, and (b) the potential adverse consequences to clients' intellectual property rights in trademark applications and registrations as well as to the integrity of the U.S. trademark registration system when such laws, rules, regulations, or procedures are violated.

The USPTO has also published ample information about the U.S. Counsel Rule. *See, e.g., Requirement of U.S. Licensed Attorney for Foreign Trademark Applicants and Registrants*, 84 FR 31498 (Final Rule) (July 2, 2019); 37 C.F.R. § 2.11 (Requirement

for representation); TMEP § 601. There is also ample, readily available information for practitioners regarding what is ethical practice before the Office in trademark matters. (See <https://foiadocuments.uspto.gov/oed>.)

Therefore, practitioners who represent applicants, registrants, or others before the USPTO in trademark matters — including those who serve as U.S. counsel for foreign-domiciled clients — are reasonably expected to know (a) the provisions of the USPTO Rules of Professional Conduct implicated by such representation, and (b) the potential disciplinary consequences when such provisions of the USPTO Rules of Professional Conduct are violated.

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

- y. 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;
- z. Within a reasonable period after the entry of this Final Order approving the Agreement, the OED Director shall file a motion dismissing the pending disciplinary action without prejudice; and
- aa. As a condition of her probation, Respondent shall pay in full the USPTO's allowable costs described in 37 C.F.R. § 11.60 incurred by the USPTO in connection with the institution, prosecution, and dismissal of the formal disciplinary proceeding against Respondent within sixty (60) days of being informed in writing of such costs.

Users,
Shewchuk,
David

Digitally signed by
Users, Shewchuk, David
Date: 2023.11.21
15:29:27 -05'00'

David Shewchuk
Deputy General Counsel for General Law
United States Patent and Trademark Office

Date


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 the foregoing FINAL ORDER was sent via email on this day to Respondent via counsel as follows:

Emil Ali
McCabe Ali LLP
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