

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

In the Matter of)	
)	
Jie Yang,)	Proceeding No. D2024-04
)	
Respondent)	
<hr/>)	

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 Jie Yang (“Respondent”), by counsel, have presented this 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. At all times relevant hereto, Respondent of West Chicago, Illinois, has been a registered patent agent (Registration Number 77,665). 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.

Background

USPTO Patent Signature Rules

3. In patent matters, “[a]ll correspondence, except for a notice of appeal pursuant to 37 C.F.R. § 41.31, filed in the Office must include a signature.” MPEP § 502.02. The USPTO’s signature requirements for patent correspondence (e.g., entity status determinations, application data sheets, and inventor declarations) are found in part at 37 C.F.R. § 1.4(d), which states:

(1) *Handwritten signature*. Each piece of correspondence, except as provided in paragraphs (d)(2), (d)(3), (d)(4), (e), and (f) of this section, filed in an application, patent file, or other proceeding in the Office which requires a person's signature, must:

- (i) Be an original, that is, have an original handwritten signature personally signed, in permanent dark ink or its equivalent, by that person; or
- (ii) Be a direct or indirect copy, such as a photocopy or facsimile transmission (§ 1.6(d)), of an original. In the event that a copy of the original is filed, the original should be retained as evidence of authenticity. If a question of authenticity arises, the Office may require submission of the original.

(2) *S-signature*. An S-signature is a signature inserted between forward slash marks, but not a handwritten signature as defined by paragraph (d)(1) of this section. An S-signature includes any signature made by electronic or mechanical means, and any other mode of making or applying a signature other than a handwritten signature as provided for in paragraph (d)(1) of this section. Correspondence being filed in the Office in paper, by facsimile transmission as provided in § 1.6(d), or via the USPTO patent electronic filing system as an attachment as provided in § 1.6(a)(4), for a patent application, patent, or a reexamination or supplemental examination proceeding may be S-signature signed instead of being personally signed (i.e., with a handwritten signature) as provided for in paragraph (d)(1) of this section. The requirements for an S-signature under this paragraph (d)(2) of this section are as follows.

- (i) The S-signature must consist only of letters, or Arabic numerals, or both, with appropriate spaces and commas, periods, apostrophes, or hyphens for punctuation, and the person signing the correspondence must insert his or her own S-signature with a first single forward slash mark before, and a second single forward slash mark after, the S-signature (e.g., /Dr. James T. Jones, Jr./); and
- (ii) A patent practitioner (§ 1.32(a)(1)), signing pursuant to §§ 1.33(b)(1) or 1.33(b)(2), must supply his/her registration number either as part of the S-signature, or immediately below or adjacent to the S-signature. The number (#) character may be used only as part of the S-signature when appearing before a practitioner's registration number; otherwise the number character

may not be used in an S-signature.

(iii) The signer's name must be:

(A) Presented in printed or typed form preferably immediately below or adjacent the S-signature, and

(B) Reasonably specific enough so that the identity of the signer can be readily recognized.

(3) *Electronically submitted correspondence.* Correspondence permitted via the USPTO patent electronic filing system may be signed by a graphic representation of a handwritten signature as provided for in paragraph (d)(1) of this section or a graphic representation of an S-signature as provided for in paragraph (d)(2) of this section when it is submitted via the USPTO patent electronic filing system.

37 C.F.R. § 1.4(d).

A patent document is to be signed by the named signatory. *See* 37 C.F.R. § 1.4(d)(4)(ii) (“The person inserting a signature under paragraph (d)(2) or (d)(3) of this section in a document submitted to the Office certifies that the inserted signature appearing in the document is *his or her own signature*. A person submitting a document signed by another under paragraph (d)(2) or (d)(3) of this section is obligated to have a reasonable basis to believe that the person whose signature is present on the document was actually inserted by that person, and should retain evidence of authenticity of the signature. Violations of the certification as to the signature of another or a person's own signature as set forth in this paragraph may result in the imposition of sanctions under § 11.18(c) and (d) of this chapter.”) (emphasis added).

Signature and Certification Requirements of § 11.18

4. Section 11.18 of title 37 of the Code of Federal Regulations sets forth the signature and certification requirements for any correspondence filed with the USPTO. Regarding certifications, 37 C.F.R. § 11.18 states that by presenting a paper to the USPTO—whether by signing, filing, submitting, or later advocating the paper—the party presenting such paper, whether a practitioner or non-practitioner, makes important certifications on which the USPTO

relies.¹

First, the party presenting a paper filed with the USPTO, whether by signing, filing, submitting, or later advocating the paper, represents that all statements made therein on the party's own knowledge are true, and that all statements made therein on the party's information and belief are believed to be true. 37 C.F.R. § 11.18(b)(1). A practitioner or non-practitioner who knowingly makes false or fraudulent statements in a paper filed in the USPTO is subject to criminal penalty under 18 U.S.C. § 1001 and any other applicable criminal statute. *See id.*

Second, 37 C.F.R. § 11.18 provides that the presenting party (that is, the signer, filer, submitter, or advocate) of a paper filed with the USPTO 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).

Section 11.18(b)(1) expressly states that a certification violation in a paper filed in the USPTO “may jeopardize the probative value” of the filing.

Accordingly, a practitioner or non-practitioner who presents, whether by signing, filing, submitting, or later advocating, any paper to the USPTO — including patent documents —

¹ These certifications apply to patent documents filed with the USPTO. *See, e.g.*, 37 C.F.R. § 1.4(d).

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).

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

Criminal Penalties for Unauthorized Representation as Practitioner

5. Anyone who falsely holds himself out as recognized to practice before the USPTO in patent matters, or who permits himself to be held out as so recognized, or who falsely holds himself out as being qualified to prepare or prosecute patent applications, is subject to criminal prosecution and a fine of up to \$1,000.00 for each offense. *See* 35 U.S.C. § 33.

Joint Stipulated Facts

6. According to public records, in 2014, Dr. Yu “Mark” Wang incorporated “Wayne and King” as a general limited liability company in Delaware.

7. According to Dr. Wang, Wayne and King, LLC also operates under the trade names “W&K IP” and “W&K.”

8. According to Respondent, Dr. Wang represented to Respondent that he operated his company from a home office in New York and then New Jersey.

9. According to Respondent, W&K had a website at <http://wandkip.com/>. According to Respondent, the Internet Archive WayBack Machine shows that W&K IP advertised to the public on its internet website URL <http://wandkip.com/> that it was a “patent service firm in New York” and represented it “provides patent prosecution and litigation service allover [*sic*] the world.” <https://web.archive.org/web/20190828140110/http://wandkip.com/>.

10. According to Respondent, the website claimed that W&K has “clients allover [*sic*] the world” and that its “patent practitioners and engineers have drafted many patent applications

to USPTO (United States Patent and Trademark Office) and responded [*sic*] many office actions in patent application process from USPTO.”

11. According to Respondent, the website bears a copyright notice “2014 W&K” and provides as a contact the email: markw@wayneandking.com, which, according to Respondent, is an email address associated with and used by Dr. Wang.

12. Dr. Wang is not, and never has been, a registered practitioner.

13. Dr. Wang is also not and has never been licensed to practice law by the bar of the highest court of any of the fifty states of the United States of America, the District of Columbia, or any commonwealth or territory of the United States of America.

14. According to Respondent, she has known Dr. Wang, who was an older student, since 2001, when they attended the same university in China. According to Respondent, Dr. Wang was someone whom she trusted: she had known him for many years; he was married to a registered practitioner who went to the same college in China as Respondent and Dr. Wang; and Dr. Wang had helped Respondent as a trusted friend and confidante through difficult times.

15. Respondent passed the registration examination, and the USPTO registered her as a patent agent on December 4, 2018 (Reg. No. 77,665). According to Respondent, prior to her registration, Respondent had no involvement or experience with Wayne and King, LLC, W&K IP, and/or W&K, and she had no experience preparing or prosecuting patent applications for clients.

16. According to Respondent, Dr. Wang told her that he was a patent agent and that he had years of experience in patent preparation and prosecution working at an American multinational technology company that specializes in specialty glass, ceramics, and related materials and technologies including advanced optics, primarily for industrial and scientific

applications. According to Respondent, Dr. Wang also told her that his wife was a patent agent at the same company, and Dr. Wang told Respondent that his wife went to law school and became a patent attorney.

17. According to Respondent, Dr. Wang represented that he also had a successful patent prosecution business, which Respondent subsequently came to learn was W&K, and the success of his business was attributable to his hard work and persistence over the years. According to Respondent, Dr. Wang told Respondent that another patent agent had worked at W&K for several years. According to Respondent, Dr. Wang also told Respondent that his wife, another registered practitioner, also assisted with W&K's patent legal services, particularly the more difficult cases.

18. According to Respondent, around the time Respondent passed the registration examination, Dr. Wang approached Respondent about offering her an opportunity to gain practical patent prosecution experience working at W&K, and she agreed to work with him to acquire experience with patent prosecution. According to Respondent, the promise of substantial patent prosecution experience never materialized.

19. According to Respondent, Dr. Wang set up a W&K email account for her and added her to a USPTO-issued Customer Number that Dr. Wang had been using.

20. According to Respondent, Dr. Wang subsequently added her to 12 Customer Numbers that he set up. According to Respondent, she was not aware that she had been added to those Customer Numbers or when they were created and she did not authorize the creation of such Customer Numbers.

21. According to Respondent, Dr. Wang deceived her into allowing him to use her name to continue prosecuting patent applications for his clients.

22. Respondent has averred to OED the following:

- a. Dr. Wang represented to her that he was a registered patent agent authorized to practice before the USPTO and had a patent prosecution business (W&K) he had been operating since 2014. Respondent believed that W&K was a legitimate business and that its practices were permissible.
- b. While Respondent was preparing for the registration examination, Dr. Wang often pitched to her about working together after she was registered and eventually becoming partners, saying it would be her best job option and he would train her to do patent prosecution.
- c. Shortly after Respondent became a registered practitioner, Dr. Wang assisted Respondent in migrating her USPTO.gov account and, in the process, gained access to her account. Without Respondent's knowledge, Dr. Wang directed all notifications to email addresses under his control and changed the account password repeatedly.
- d. Respondent never had access to any client files or documents relating to W&K patent matters; Respondent did not draft client documents relating to W&K patent matters; Respondent did not advise clients relating to W&K patent matters; and Respondent did not receive emails from the USPTO, applicants, or foreign associates concerning any W&K patent matters.
- e. Without any practical patent prosecution experience herself, Respondent relied on Dr. Wang and his wife as patent agents with greater experience to provide guidance on appropriate practice before the USPTO, including the use of Respondent's name by Dr. Wang.
- f. Under a claim of being a registered practitioner with greater experience, Dr. Wang exerted supervisory authority over Respondent.
- g. As of September 30, 2023, the only patent applications or filings therein on which Respondent personally entered her S-signature were the following filings made in one specific patent application as follows:
 - i. A Power of Attorney filed on January 20, 2023; and
 - ii. A Response to Office Action, After Final Consideration Program Request, Change of Address, and Maintenance Fee Address Change filed on February 5, 2023.
- h. Other than the documents identified as being filed in the aforementioned specific U.S. patent application, Respondent did not personally enter her signature on any other documents filed in the USPTO, including any W&K patent matter documents purportedly bearing her S-signature.

23. Numerous patent documents bearing Respondent's purported S-signature were filed with the USPTO, including numerous micro-entity certifications falsely asserting micro-entity status for the applicant. As evidenced by Respondent's averments set forth in the preceding paragraph, Respondent did not sign such documents, nor did she prepare or review them before they were filed with the USPTO.

24. According to Respondent, Respondent did not know about numerous patent documents bearing Respondent's purported S-signature having been filed with the USPTO, including numerous micro-entity certifications falsely asserting micro-entity status for the applicant, until after she received OED's initial request for information about such filings in October 2022.

25. According to Respondent, she did not consent to Dr. Wang; persons affiliated with Wayne and King, W&K IP, and/or W&K; companies doing business with Dr. Wang, Wayne and King, W&K IP, and/or "W&K; or anyone else to sign her name to patent documents filed with the USPTO.

26. According to Respondent, before receiving OED's initial request for information in October 2022, she had no contact or communications with any third-party entities working with or through Dr. Wang and/or W&K, such as foreign associates, agents, or other intermediaries who locally "represent" non-U.S. clients in foreign countries who seek to apply for patent rights or otherwise require legal representation in patent matters before the USPTO.

27. According to Respondent, after receiving OED's initial request for information, she was stunned by evidence indicating her purported S-signature had been entered by Dr. Wang; persons affiliated with Wayne and King, W&K IP, W&K, and/or companies doing business with

Dr. Wang, Wayne and King, W&K IP, and/or W&K on many patent documents filed in the USPTO that she was unaware of and had not reviewed or drafted.

28. According to Respondent, Dr. Wang represented that he had, without Respondent's knowledge or consent, allowed foreign-based entities, including HoYi IP (a.k.a. HY IP), to enter Respondent's purported S-signature on patent documents that she had not drafted or reviewed, and about which she had no knowledge, that were filed with the USPTO.

29. According to Dr. Wang, W&K filed an estimated 4,000 patent documents with the USPTO where someone other than Respondent had signed Respondent's signature to the document.

30. According to Respondent, after she realized that she was not going to get patent prosecution experience from Dr. Wang, she asked to dissociate from W&K. According to Respondent, Dr. Wang continued to deceive Respondent in order to appease her. According to Respondent, Respondent was eventually successful in dissociating from W&K a few months before she received the request for information regarding the erroneous micro entity status certifications from the OED.

31. Respondent has recognized that her acts and omissions implicated numerous USPTO Rules of Professional Conduct including 37 C.F.R. §§ 11.503, 11.505, and 11.804.

Additional Considerations

32. Respondent has acknowledged her ethical lapses, demonstrated genuine contrition, and accepted responsibility for her acts and omissions.

33. Respondent has contacted the foreign applicants or their representatives affected by the above acts and omissions and advised them of the facts referenced above.

34. Respondent represents that she acted in reliance on a long-time personal friend whom she believed to be a registered practitioner with greater experience.

35. Respondent has expressed regret for the acts and omissions above.

36. Respondent engaged in extraordinarily prompt, candid, and full cooperation with OED's investigation, *e.g.*, by participating in multiple interviews with OED; by providing *sua sponte* informative, supplemental responses to her original responses to requests for information; and by providing sworn declarations in response to factual inquiries.

Joint Legal Conclusions

37. Respondent acknowledges that, 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. 11.804(d) (conduct prejudicial to the administration of justice, including conduct prejudicial to the integrity of the federal patent examination and issuance process) by engaging in acts and omissions that allowed another person or persons to sign her signature to patent filings submitted to the USPTO without her consent and without the documents having been reviewed by her.

Agreed-Upon Sanction

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

- a. Respondent is hereby publicly reprimanded;
- b. Respondent is placed on probation for twelve (12) months beginning with the date of the Final Order;
- c. Respondent is considered to be a registered practitioner in active and good standing with the USPTO notwithstanding being placed on probation, and, therefore, she is authorized to practice fully before the Office in patent matters during the entirety of

her probationary period, provided that she is not subsequently suspended or excluded by the USPTO Director;

d. (1) If the OED Director is of the good faith opinion that Respondent, during Respondent's probationary period, failed to comply with any provision of the Agreement, the 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 twelve (12) 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 good faith opinion that Respondent, during Respondent's probationary period, failed to comply with any provision of the Agreement, the Final Order, or 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 twelve (12) 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 the suspension;
- g. The OED Director shall electronically publish the 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 Reprimand and Probation

This notice concerns Jie Yang of West Chicago, Illinois, who is a registered patent agent (Registration Number 77,665). Ms. Yang is hereby reprimanded for violating 37 C.F.R. § 11.804(d) (engaging in conduct prejudicial to the administration of justice including conduct prejudicial to the integrity of the federal patent examination and issuance process). The violations are predicated upon Ms. Yang engaging in acts and omissions that allowed another person or persons to sign her signature to patent filings submitted to the USPTO without her consent and without the documents being reviewed by her. Ms. Yang shall serve a probation period of twelve (12) months and is permitted to practice before the Office in patent matters during her probationary period unless she is subsequently suspended by order of the USPTO Director. Ms. Yang's failure to comply with any of the terms of the Final Order can result in the USPTO Director suspending her for up to twelve (12) months for the violations set forth in the Joint Legal Conclusions after the OED Director issues a Show Cause Order to her.

Ms. Yang, through her acts and omissions, allowed non-practitioner Dr. Yu "Mark" Wang, a long-time friend who represented to her that he was a

registered patent practitioner operating a firm under the name “Wayne and King, LLC” as well as the trade names W&K IP and W&K, to enter her name and purported S-signature in patent filings submitted to the USPTO without her involvement in the review, preparation, or filing of such documents.

Ms. Yang did not know about numerous patent documents bearing her purported S-signature having been filed with the USPTO, including numerous micro-entity certifications falsely asserting entitlement to claim micro-entity status for the applicant. Ms. Yang did not consent to Dr. Wang; persons affiliated with Wayne and King, W&K IP, and/or W&K; companies and foreign associates doing business with Dr. Wang, Wayne and King, W&K IP, and/or “W&K; or anyone to sign her name to patent documents filed with the USPTO.

In agreeing to the disposition of the matter, the OED Director acknowledged Ms. Yang’s extraordinarily prompt, candid, and full cooperation with OED’s investigation, *e.g.*, by participating in multiple interviews with OED; by providing *sua sponte* informative, supplemental responses to her original responses to requests for information; and by providing sworn declarations in response to factual inquiries.

This action is the result of a settlement agreement between Jie Yang 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 the Agreement or the 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 (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. Respondent waives all rights to seek reconsideration of the Final Order under 37 C.F.R. § 11.56, waives the right to have the Final Order reviewed under 37 C.F.R.

§ 11.57, and waives the right otherwise to appeal or challenge the 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 the Final Order.

Users, Shewchuk, David
Digitally signed by Users, Shewchuk, David
Date: 2024.02.02 10:55:58 -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 that the foregoing Final Order was sent, on this day, to the parties in the manner indicated below-

Via e-mail:

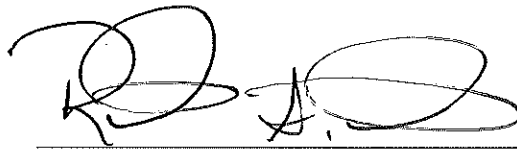
Michael E. McCabe, Jr.
mike@mccabeali.com
Counsel for Respondent

Via e-mail:

Sydney Johnson
Hendrik deBoer
Sydney.Johnson@uspto.gov
Hendrik.deBoer@uspto.gov
[REDACTED]
Counsel for the OED Director

2/2/2024

Date



United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450