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

In the Matter of	)	
	)	
Jianmin Zhou,	)	Proceeding No. D2026-25
	)	
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 Jianmin Zhou ("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 City of Industry, California, has been a registered patent attorney (Registration Number 68,421). 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. Registered practitioners are 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 City of Industry, California, is a registered patent attorney (Registration Number 68,421).

21. Respondent is also an active member in good standing of the State Bar of California (Bar Number 272487).

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

23. Between July 14, 2021, and October 18, 2024, Respondent presented micro entity certifications in nineteen (19) applications 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 nineteen (19) 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 explained to OED the manner in which he and his law firm (a) conducted a USPTO public records search for each named inventor or applicant to identify any published U.S. patent applications or issued patents attributable to that inventor or applicant — a process that Respondent represented was performed in every case, and (b) affirmatively informed his clients of the micro entity filing limit and were asked whether they had previously filed patent applications in the United States.

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. USPTO issued a Notice of Additional Fees Due in light of Respondent's incorrect certifications of eligibility of micro entity status.

29. Respondent acknowledges that he did not always maintain adequate procedures regarding the incorrect micro entity certifications referenced in this Agreement, but he represents that he did not intend to deceive or defraud the Office in connection with those micro entity certifications.

30. Respondent represents that his errors represented a small percentage of his thousands of patent application filings.

31. Respondent represents that his procedures for verifying his clients' micro entity status has evolved over time since 2021, and has consistently improved. He also represents that while his law firm has in place an improved system, mistakes may still happen and, therefore, has accordingly adopted a policy to conduct an internal review every six months, to identify mistakes and to take appropriate remedial actions immediately after identifying any mistakes.

32. Respondent also represents that, beginning in August 2025, he strengthened his operating procedures, requiring his clients to further provide specific documentary evidence demonstrating their entitlement to micro entity status before he makes such micro entity certifications to the Office.

33. Further, Respondent represented to OED his commitment to continue informing his clients, as well as any third-party entities who refer patent matters to him, as to the rules regarding eligibility for micro entity and small entity status and the statutory penalties for false assertions or certifications of micro and small entity status.

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 has personally, fully, and thoroughly cooperated with the Office's investigation and has implemented additional measures intended to prevent recurrence.

37. In response to receiving correspondence from OED inquiring into the erroneous micro entity certifications, Respondent conducted a comprehensive audit of his files for any additional erroneous micro entity certifications. Respondent acknowledged that this audit revealed additional applications not previously cited by OED that erroneously claimed micro entity status and have since been corrected.

Joint Legal Conclusions

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

> 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) *inter alia* by (i) not conducting a reasonable inquiry under the circumstances pursuant to 37 C.F.R. § 11.18 prior to signing and presenting certain 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 (iii) claiming micro entity eligibility when the underlying applicants were not so entitled.

Agreed-Upon Sanction

39. Respondent agrees and it is hereby **ORDERED** that:

a. Respondent shall be, and hereby 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 Jianmin Zhou of City of Industry, California, who is a registered patent attorney (Registration Number 68,421) and an active member in good standing of the State Bar of California (Bar Number 272487). The USPTO Director has reprimanded Mr. Zhou for violating 37 C.F.R. § 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. Zhou's violation of this provision of the United States Patent and Trademark Office ("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 July 14, 2021 and October 18, 2024, Mr. Zhou presented to the USPTO at least nineteen (19) micro entity certifications that erroneously certified the applicants were entitled to micro entity status. In fact, these applications 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 application. In response to the notices, Mr. Zhou corrected the applicants' entity statuses and paid the deficient amount owed.

Mr. Zhou represented to OED that, since sometime in 2020, his firm employed a multi-step process to verify compliance with the USPTO's rules regarding patent applications and micro entity status under 37 C.F.R. § 1.29(a)(2) by employing the following three step process:

1) Mr. Zhou stated that he and his firm conducted a USPTO public records search for each named inventor and applicant to identify any published U.S. patent applications or issued patents attributable to that inventor. Mr. Zhou stated that this search was performed in every case, while noting that such public records searches have inherent limitations, because USPTO public databases do not disclose unpublished utility applications prior to 18 months from filing, nor do they publish design applications prior to grant.

2) Mr. Zhou stated that he and his firm relied on an internal tracking system to identify prior filings handled by the firm for the same

inventor or applicant. Mr. Zhou stated that during the relevant period from 2021 to 2024, this system evolved from multiple spreadsheets into a centralized database. Mr. Zhou stated that in some earlier cases, the system primarily tracked applicant-level data and did not always independently cross-reference inventor identity across different applicants or foreign associates. Mr. Zhou acknowledged that these limitations unintentionally resulted in inaccuracies that were later identified.

3) Mr. Zhou stated that his clients were a) affirmatively informed — either directly or through foreign associates or agents — of the micro entity filing limit, and b) were asked whether they had previously filed patent applications in the United States. Mr. Zhou stated that this request and instruction was provided in writing through micro entity instruction sheets and standardized confirmation and declaration forms. Mr. Zhou and his firm relied on these representations by their clients as part of the reasonable inquiry conducted prior to filing.

Mr. Zhou stated that, beginning in August 2025, he also strengthened his operating procedures, requiring his clients to further provide specific documentary evidence demonstrating their entitlement to micro entity status before Mr. Zhou will make such certifications to the USPTO.

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.

Furthermore, 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. 1536 *Official Gazette Patent Office* 204

(July 8, 2025). 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.

This action is the result of a settlement agreement between Mr. Zhou 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 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;

e. 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; and

f. Each party 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: 2026.05.04 08:08:57 -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. Jianmin (James) Zhou
Law Offices of James Zhou
17700 Castleton Street, Suite 568
City of Industry, CA 91748
jzhou@zhoulawoffices.com
Respondent

Via email:

Sydney Johnson
[redacted]
Counsel for OED Director

5/4/2026
Date

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