

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

In the Matter of)	
)	
Shan Zhu,)	Proceeding No. D2024-19
)	
Respondent)	
_____)	

FINAL ORDER

The Acting Deputy General Counsel for Enrollment and Discipline and the Acting Director of the Office of Enrollment and Discipline (“OED Director”) for the United States Patent and Trademark Office (“USPTO” or “Office”) and Mr. Shan Zhu (“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 Joint 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 was an attorney admitted to practice in the State of New York, in good standing, and authorized to practice before the USPTO in trademark matters. *See* 5 U.S.C. § 500(b); 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 to 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

U.S. Counsel Rule

4. Effective August 3, 2019, the USPTO amended its rules of practice to require that trademark applicants and registrants not domiciled within the United States be represented by an attorney who is an active member in good standing of the bar of the highest court of any of the 50 states of the U.S., the District of Columbia, or any Commonwealth or territory of the United States. *See* 37 C.F.R. § 2.11(a); Requirement of U.S. Licensed Attorney for Foreign Trademark Applicants and

Registrants, 84 Fed. Reg. 31498 (July 2, 2019) (Final Rule) (also known as the “U.S. Counsel Rule”).¹

5. The U.S. Counsel Rule is intended to increase USPTO customer compliance with U.S. trademark law and USPTO regulations, improve the accuracy of trademark submissions to the USPTO, and safeguard the integrity of the U.S. trademark register. For example, practitioners who represent trademark applicants before the USPTO are expected, among other things, to undertake a bona fide review of specimens submitted to the USPTO to show actual use of a mark in commerce, in support of a trademark application.

6. Respondent represented to OED that he learned of the U.S. Counsel Rule when it was proposed by the USPTO in 2018 and that he knew about the Notice of Proposed Rulemaking concerning the U.S. Counsel Rule that published in February 2019.

*USPTO Trademark Signature Rules
and Certifications under 37 C.F.R. § 11.18*

7. USPTO trademark signature rules require that all signatures be personally entered by the named signatory and that a person electronically signing a document must personally enter any combination of letters, numbers, spaces, and/or punctuation marks that he or she has adopted as a signature. *See* 37 C.F.R. §§ 2.193(a) and (c).

8. If the signature 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, the trademark may be subject to cancellation. *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.”). When trademark applications are impermissibly signed and filed with the USPTO, the integrity of the federal trademark registration process is adversely affected.

9. The USPTO’s Trademark Manual of Examining Procedure (“TMEP”) is a publicly available guidance document that 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. For example, TMEP § 611.01 provides clear and unambiguous guidance on the agency’s signature rules, including that (a) the person identified as the signatory must personally sign the document (e.g., a paralegal, legal assistant, or secretary may not sign or enter the name of an attorney or other authorized signatory), (b) a person may not delegate his or her authority to sign, and (c) no person may use document-signing software to enter or electronically generate someone else’s signature. *See* TMEP § 611.01.

10. When a practitioner presents (whether by signing, filing, submitting, or later advocating) any paper (including trademark documents) to the USPTO, the practitioner makes certifications pursuant to 37 C.F.R. § 11.18 (“Signature and certificate for correspondence filed in the Office”). In part, the regulations governing Representation of Others Before the United States Patent and Trademark Office provide that the practitioner presenting the document certifies that to the best of

¹ Available at: <https://www.govinfo.gov/content/pkg/FR-2019-07-02/pdf/2019-14087.pdf>.

the practitioner's knowledge, formed after an inquiry reasonable under the circumstances, the factual contentions made in the document have evidentiary support. *See* 37 C.F.R. § 11.18(b)(2).

Joint Stipulated Facts

Respondent and His Practice

11. Respondent was admitted to practice law in the State of New York in 2018 (Reg. No. 5661426).
12. Respondent began representing applicants in trademark matters before the USPTO in approximately August 2019.
13. As of January 5, 2024, Respondent was the attorney of record in over 12,200 U.S. trademark applications.
14. From at least January 1, 2021 to the present, Respondent has operated his law firm, Shan Zhu Law Group, P.C. At some point during the same time period, Respondent's firm also began doing business as "Zebra Law."
15. Respondent worked from Flushing, New York from January 2021 - October 2021, and from New Hyde Park, New York, since October 2021.
16. Two non-attorneys assisted Respondent at his firm: "Assistant 1" and "Assistant 2".
17. Assistant 1 worked from Flushing, New York from January 2021 – October 2021 and from New Hyde Park, New York since October 2021.
18. Assistant 2 worked from Getzville, New York, near Buffalo, New York.
19. At the relevant times, Respondent's email correspondence address listed in USPTO trademark filings was an email address to which Respondent has access and the address to where USPTO sent trademark correspondence to Respondent.

Respondent's Relationship with Huanyee and Huanyee's Impermissible Signature Practices

20. In approximately March 2020, Respondent entered into a business relationship with Shenzhen Huanyee Intellectual Property Co., Ltd. (深圳市环亿知识产权有限公司) ("Huanyee"), a trademark agency in China that facilitated U.S. trademark filings on behalf of China-domiciled applicants.
21. Huanyee referred foreign-domiciled clients to Respondent for purposes of filing U.S. trademark applications with the USPTO.
22. Respondent did not have any written agreement with Huanyee.
23. Respondent's primary point of contact affiliated with Huanyee was Yusha Zhang.

24. Before Respondent entered into a relationship with Huanyee, he advised Huanyee about the U.S. Counsel Rule, USPTO trademark signature requirements, and 37 C.F.R. § 11.18, including that only the named signatory on a trademark document can sign the trademark document.

25. Huanyee engaged in a pattern and practice of entering Respondent's signature on trademark documents filed with the USPTO on behalf of foreign-domiciled trademark applicants.

26. In a response to an RFI that OED sent to him, Respondent admitted that Huanyee had entered his signature on trademark documents (including declarations) filed with the USPTO in 2020.

27. Respondent contemporaneously should have known about Huanyee's pattern and practice of entering his signature on trademark documents (including declarations) filed with the USPTO.

28. In 2020, the USPTO sent filing receipts for all trademark documents where Respondent was the attorney of record for clients referred to him by Huanyee to Respondent's email correspondence address.

29. A filing receipt for a trademark filing contains detailed information about the filing including, but not limited to, the applied-for mark, the assigned application number (also known as a "serial number"), the filing date, the applicant's name, the name of the counsel of record, the name of each signatory, and the signature(s) set forth in the application.

30. On March 15, 2024, Respondent presented OED with a list of 168 trademark documents wherein Huanyee had entered his signature "after January 1, 2021," and which Respondent believed were improper signatures.

31. In a response to OED's third RFI, Respondent represented that his business relationship with Huanyee had been "terminated" since January 2021 except for the fact that he kept prosecuting and making post-filing submissions in support of applications already on file with the USPTO, and that "since January 2021, the Respondent has not taken on any new clients referred by Huanyee."

32. However, Respondent is identified as the attorney of record in at least six trademark applications filed with the USPTO on May 22, 2021, via a USPTO.gov account used by Yusha Zhang and Huanyee. For each of them, Respondent is the named signatory, the primary email address for correspondence belonged to Respondent, and USPTO sent the filing receipts for the six applications filed on May 22, 2021 to the email address for correspondence belonging to Respondent. Respondent represents that he personally entered his signature in these applications.

June 8, 2021 Order to Show Cause

33. On June 8, 2021, the USPTO issued an Order to Show Cause to Yusha Zhang and Huanyee, which was signed by the USPTO's Deputy Commissioner for Trademark Examination Policy.

34. The June 8, 2021 Order to Show Cause was based on the USPTO's belief that Yusha Zhang and her employees were "engaging in unauthorized practice before the USPTO in trademark matters, providing false information to the USPTO by means of entering the signatures of thousands of third parties on trademark submissions, and providing false, fictitious, or fraudulent information in trademark submissions with the intent to circumvent the USPTO Rules."

35. Respondent was not a party to the June 8, 2021 Order to Show Cause; it was not issued to him.

36. The June 8, 2021 Order to Show Cause included the following statements regarding Respondent, Shan Zhu:

... [Y]ou and your employees appear to be entering the name of at least two different U.S.-licensed attorneys on at least several hundred submissions. In the cases reviewed, the attorneys' signatures often appear alongside the applicants' declaration signatures and were allegedly personally entered on the TEAS submission by the attorney. For example, in Serial No. 90199060 the Office received responses on April 15, 2021 and May 6, 2021, each originating from one of your MyUSPTO accounts, each allegedly directly signed by applicant "Bai, Bin" and attorney "Shan Zhu," despite the fact that the applicant allegedly lives in a county in China that is located approximately 12,700 miles away from Shan Zhu's offices in Flushing, New York

. . . Only when challenged further have you or your employees designated attorneys Shan Zhu or Yi Wan and provided domicile information that suggests the applicants are actually located outside the United States Based upon the multiple attempts to provide false domicile information for entities located outside the United States, and the reluctance to list an attorney of record until challenged, the USPTO can only conclude that you and your employees have been providing false, fictitious, and/or fraudulent information to the USPTO in an effort to obfuscate the applicants' foreign domicile addresses with the intent to circumvent the requirement for U.S. counsel. Each submission listing a false domicile address for a foreign domiciled applicant is a paper submitted for an improper purpose under 37 C.F.R. § 11.18(b)(2). See 37 C.F.R. § 2.11(e)

37. The June 8, 2021 Order to Show Cause also specifically stated, *inter alia*, that:

... knowingly or negligently submitting a document that includes false signatory information; false applicant information, claims of use in commerce for more goods and services than the applicant is actually offering, or specimens that do not demonstrate actual use in commerce violates at least 37 C.F.R. § 11.18(b)(1), and doing so without evidentiary support or with intent to circumvent the USPTO's rules of practice in trademark matters violates at least 37 C.F.R. § 11.18(b)(2).

38. Respondent told OED that he knew about the June 8, 2021 Order to Show Cause soon after it was issued.

39. In his response to OED's first RFI — a different RFI response than the one in which he asserted he had terminated his relationship with Huanyee in January 2021 (except for the fact that he kept prosecuting and making post-filing submissions in support of applications already on file with the USPTO) — Respondent told OED that he terminated his relationship with Huanyee "in or around June 2021 upon the issuance of the order to show cause."

December 10, 2021 Sanctions Order

40. On December 10, 2021, the USPTO issued a precedential Final Order for Sanctions (“Sanctions Order”) against Huanyee and Yusha Zhang.

41. Respondent was not a party to the Sanctions Order; it was not issued to him. The Sanctions Order was filed under each application listed in Exhibit A of the Order to Show Cause and delivered to Respondent.

42. The Sanctions Order finds, *inter alia*, that Huanyee and Yusha Zhang had “engaged in the unauthorized practice of law, provided false domicile information for applicants, impermissibly entered the signature of the named signatory on declarations and verifications, and violated other USPTO Rules and the USPTO’s website terms of use.”

43. The Sanctions Order imposed sanctions that included terminating “all trademark application proceedings involving submissions by [Yusha Zhang or Huanyee] or filed through a uspto.gov account registered to or controlled by Ms. Zhang or any officer, employee or agent of Huanyee.”

44. The Sanctions Order ordered that, “[f]or affected registrations listed in attached Exhibit A that issued before or during the administrative sanctions process, the USPTO’s electronic records will be updated to include this order and an appropriate entry in the prosecution history indicating that the registration was subject to an order for sanctions. Any pending post-registration submissions will be given no weight.”

45. The Sanctions Order also required removal of “correspondence information associated with [Yusha Zhang and Huanyee] in the USPTO electronic records for all affected applications and registrations in due course” and directed “the USPTO’s Office of the Chief Information Officer . . . to permanently deactivate any USPTO accounts in which contact information related to [Yusha Zhang and Huanyee] appears, and to take all reasonable efforts to prevent [Yusha Zhang and Huanyee] from creating or activating further accounts.”

46. The text of the Sanctions Order does not mention Respondent’s name.

Respondent’s Association with Other Foreign Companies

47. In addition to Respondent’s business relationship with Huanyee, Respondent identified to OED eight foreign companies (“foreign agents”) from whom he received more than 100 referrals for trademark matters in a given calendar year.

48. Table 1 below lists these eight (8) foreign agents, along with the approximate number of referrals Respondent received from each agent since January 2021.

Table 1

Representative	Approx. Referrals Since Jan. 2021	Representative	Approx. Referrals Since Jan. 2021
Shenzhen Chengfeng Intellectual Property Agency Co., Ltd. 深圳市诚锋知识产权代理有限公司	1,627	Fujian Fubiao Intellectual Property Office Co., Ltd. 福建省福标知识产权事务所有限公司	349
Shenzhen Haobide Intellectual Property Co., Ltd. 深圳市浩必德知识产权有限公司	1,586	Tremark (Shenzhen) International Intellectual Property Service Company 商标马克（深圳）国际知识产权服务公司	226
Shenzhen Mingjie Intellectual Property Agency Co., Ltd. 深圳市明杰知识产权代理有限公司	881	Jinan Haifeng E-Commerce Co., Ltd. 济南海丰E-Commerce有限公司	214
Coolboy Intellectual Property Agency (Shenzhen) Co., Ltd. 酷博知识产权代理（深圳）有限公司	521	Shenzhen Longfu Intellectual Property Co., Ltd. 深圳市龙福知识产权有限公司	194

49. Respondent agreed to perform a variety of law services for these foreign agents, which mostly included trademark prosecution services and representing foreign-domiciled trademark applicants before the USPTO.
50. Respondent's trademark work for the foreign agents encompassed applications, responses to Office actions, and representing clients in Trademark Trial and Appeal Board ("TTAB") proceedings including oppositions and cancellations.
51. Respondent did not have any written agreements with these foreign agents.
52. Respondent's relationship with Shenzhen Chengfeng Intellectual Property Agency Co., Ltd. ("Chengfeng") began in approximately August 2019 and ended in June 2023.
53. Respondent's points of contact affiliated with Chengfeng included Yuyin Zhang and Yong Kang Zhang (*a.k.a.* Zhang Yongkang).
54. Respondent's relationship with Shenzhen Haobide Intellectual Property Co., Ltd. ("Haobide") began in April 2021 and ended in January 2023.
55. Respondent's point of contact affiliated with Haobide was a person whom Respondent identified only as "Sunny." Respondent indicated to OED that he did not know Sunny's full legal name.
56. Respondent's relationship with Shenzhen Mingjie Intellectual Property Agency Co., Ltd. ("Mingjie") began in March 2021 and ended in August 2023.
57. Respondent's relationship with Coolboy Intellectual Property Agency (Shenzhen) Co., Ltd. ("Coolboy") began in approximately August 2020 and largely ended in April 2022, although Respondent took some cases from Coolboy in July 2022, September 2022, April 2023, June 2023, and July 2023.
58. Respondent's points of contact affiliated with Coolboy included Tiahen Lu (*a.k.a.* Henry Lu) and Chen Yong Cheng.
59. Respondent's relationship with Fujian Fubiao Intellectual Property Office Co., Ltd. ("Fujian") began in approximately October 2019 and ended in April 2023.
60. Respondent's primary point of contact affiliated with Fujian was Jingzuo Su.
61. Respondent's relationship with Tremark (Shenzhen) International Intellectual Property Service Company ("Tremark") began in approximately August 2019 and largely ended in approximately April 2021, although Respondent also took some cases from Tremark in June 2021, April 2022, July 2022, August 2022, July 2023, and September 2023.
62. Respondent's points of contact affiliated with Tremark included Liao Tony and Tony Tsai.
63. Respondent's relationship with Jinan Haifeng E-Commerce Co., Ltd. ("Jinan") began in March 2021 and ended in August 2023.

64. Respondent's primary point of contact affiliated with Jinan was Xuguang Zheng.
65. Respondent's relationship with Shenzhen Longfu Intellectual Property Co., Ltd. ("Longfu") began in approximately April 2021 and largely ended in approximately November 2022, although Respondent took some cases from Longfu in March, April, May and October of 2023.
66. Respondent's primary point of contact affiliated with Longfu was Yuqing Huang.
67. Respondent had a business relationship with an entity that used "us@bestipservice.com" and "service@bestipservice.com" as contact email addresses for trademark applications ("the Best IP entity"). Respondent believes that the Best IP entity is affiliated with, or is the same entity as, Fujian.

Additional Improper Signature Practices by Foreign Agents

68. Respondent claimed to OED that he "discover[ed] improper signatures" by Huanyee "in or around May 2021."
69. After May 2021, Respondent did not take adequate steps to prevent other foreign referring trademark agents, *i.e.*, at least Chengfeng, Coolboy, Tremark, and the Best IP entity, from entering his signature in trademark documents filed with in the USPTO.
70. On May 6, 2024, Respondent provided OED with a list of 340 documents where he believed his signature had been impermissibly entered on trademark documents filed with the USPTO.
71. Some of the documents on the list of 340 overlapped with those on the previously provided list of 168 documents impermissibly signed by Huanyee. Others included documents where Tremark and Coolboy impermissibly had entered Respondent's signature.
72. The USPTO sent filing receipts for the 340 trademark documents believed impermissibly signed by Tremark and Coolboy to Respondent's email correspondence address.
73. OED's investigation separately identified 470 trademark documents where the evidence shows that Respondent's signature had been impermissibly entered by another person, including signatures on declarations.
74. The 470 impermissibly-signed trademark documents included numerous filings by Chengfeng, Coolboy, Tremark, and the Best IP entity.
75. The USPTO sent filing receipts for 391 of these 470 trademark documents to Respondent's email correspondence address.
76. Chengfeng, Coolboy, and Tremark, and the Best IP entity each engaged in a pattern and practice of entering Respondent's signature on trademark documents filed with the USPTO.
77. Respondent either disregarded or failed to review filing receipts sent to his email correspondence address, which filing receipts, if reviewed, would have disclosed that trademark documents filed with the USPTO were improperly signed.

78. Respondent contemporaneously should have known about at least Chengfeng's, Coolboy's, Tremark's, and the Best IP entity's patterns and practices of entering his signature on trademark documents filed with the USPTO.

Respondent's Failures to Notify Clients Regarding Impermissible Signatures

79. Respondent did not notify all of his clients about their impermissibly-signed trademark documents nor the actual or potential significant harm to the clients' respective intellectual property rights in their pending applications or issued registrations arising from the impermissible signings.

80. Respondent asserted to OED that, upon discovering improper signatures for Huanyee clients, he collected clients' contact information from Huanyee and started to reach out to the clients.

81. According to Respondent, after the June 8, 2021 Order to Show Cause was issued, based on advice by Huanyee's counsel, he reached out to Huanyee-referred applicants in July 2021-October 2021 and began to enter voluntary amendments to (a) correct the applicants' email addresses which were incorrect; (b) correct his email address, which was incorrect; and (c) attempt to ratify the signatures that were not properly entered.

82. Respondent did not provide OED with any samples or copies of written notices he provided to Huanyee-referred clients.

83. Respondent informed OED that he did not complete the process of notifying all of his Huanyee-referred clients about the impermissibly-signed documents because the USPTO issued the Sanctions Order in December 2021.

84. Respondent did not timely check for impermissible signatures by any of the other foreign agents with whom he had a business relationship, nor did Respondent explain to OED why he did not do so.

*Respondent's Failures to Notify the USPTO's Trademark Operations
Regarding Impermissible Signatures*

85. The USPTO's Office of the Commissioner of Trademarks, specifically its Trademark Operations division, handles examination of trademark applications and post-registration filings.

86. Respondent did not notify the USPTO's Trademark Operations about all of the trademark matters containing impermissible signatures where he was counsel of record.

87. Respondent explained to OED that, in light of the June 8, 2021 Order to Show Cause, he was of the view that the USPTO knew about impermissible signatures.

88. Respondent did not provide evidence to OED that he notified the USPTO about all documents impermissibly signed in applications filed with the USPTO on behalf of Huanyee referred clients, *i.e.*, documents filed with the USPTO on behalf of Huanyee-referred clients other than the documents identified in the June 8, 2021 Order to Show Cause.

89. Respondent did not provide evidence to OED that he notified the USPTO about any impermissibly-signed documents in applications filed with the USPTO on behalf of non-Huanyee referred clients.

Failures to devote adequate time, attention and care to client matters led to the filing of numerous false specimens

90. Respondent did not sufficiently inform the foreign agents with whom he had business relationships regarding the legal requirements for a trademark application, including the legal requirements for demonstrating the use of a mark in commerce and the difference between a Trademark Act § 1(a) filing (an application to register a mark based on actual use in commerce) and a Trademark Act § 1(b) filing (an application to register a mark based on a *bona fide* intent to use the mark in commerce), or the requirements for specimens of use of a mark in commerce, which are needed for § 1(a) applications at the time of filing and § 1(b) applications when a Statement of Use is filed.

91. Respondent signed numerous declarations under penalty of perjury in “Section 1(a)” use in commerce trademark applications, certifying that his client’s specimen showed the mark as used in commerce.

92. On many occasions, Respondent performed an inadequate review of the specimens provided to him through the foreign agents with whom he had business relationships.

93. On many occasions, Respondent filed false specimens in trademark applications.

94. Several times, Respondent continued to file false specimens in a trademark application even after the trademark examining attorney specifically identified the false specimen issue.

95. Respondent made numerous false specimen filings despite concerns about specimens that a trademark examining attorney had previously specifically enumerated and identified in an Office action in the same application.

96. Many of the specimens submitted in trademark applications signed by Respondent do not appear to show the mark as used in commerce.

97. In some instances, Respondent submitted specimens that appear to consist of digitally created or altered images or mockups (*e.g.*, marks that are artificially applied to an image of goods sold under a different brand).

98. In other instances, Respondent submitted specimens that consist of or include images or descriptions copied from third party websites.

99. Examples of Respondent repeatedly filing false specimens in a trademark application and/or ignoring or disregarding related issues previously identified by the trademark examining attorneys can be found in (and are not limited to) the file histories of the following U.S. trademark application numbers: 90316403, 90381488, 90123068, 90578426, 90743995, 90449751, 90656357, 90799928, 90849329, 97160768, and 97209829.

100. At least 44 opposition proceedings alleging fraud against the USPTO and/or no use of the mark in commerce were filed with the TTAB against applicants for whom Respondent was the attorney of record at the time of filing of a § 1(a) application and, in many cases, where Respondent was the named signatory on the declaration.

101. In seven oppositions, the trademark applicants routinely did not respond to these TTAB opposition proceedings. See opposition proceeding numbers: 91266542, 91266855, 91267426, 91270582, 91270737, 91281885, 91285285.

102. In each of these example TTAB proceedings, Respondent was the signatory of the underlying trademark application being challenged, and six of these TTAB proceedings were emailed to Respondent.

103. Each of these example TTAB proceedings resulted in an entry of default judgment against the trademark applicant.

Representation of [REDACTED]

104. Respondent was the attorney of record for [REDACTED], a trademark applicant.

105. Respondent asserts that Nestech 360 Corporation hired him to file a trademark application with the USPTO for [REDACTED] (“the trademark application”).

106. Respondent filed the trademark application, which identified [REDACTED] as the named signatory on the trademark application and bore [REDACTED]’ ostensible signature on the trademark application declaration. The signature, however, was entered on the trademark application declaration by someone other than [REDACTED]. The trademark application also included an incorrect email address, which was corrected once Respondent became aware, and it did not list all the trademark classes that [REDACTED] had identified for the application to include.

107. Respondent did not communicate with [REDACTED] before filing the trademark application. Thus, Respondent did not verify with his client the accuracy, propriety and completeness of the trademark application’s contents before Respondent filed it.

108. Respondent did not consult with [REDACTED] regarding his compensation agreement with Nestech 360 Corporation.

109. Respondent did not discuss with [REDACTED] the potential conflicts attendant to his arrangement with Nestech 360 Corporation prior to February 6, 2024, nor did Respondent obtain [REDACTED]’ informed consent when receiving compensation for his representation of [REDACTED] from someone other than her.

Additional Considerations

110. Respondent has never been previously disciplined by the USPTO, and he represents that he has not been subject to discipline by any court or any state bar.

111. Respondent understands and acknowledges that (a) the USPTO trademark signature rule requiring the named signatory to enter his or her signature on a trademark document to be presented to the Office is a substantive rule, not a technical requirement and (b) a failure of the named signatory to enter his or her signature on a trademark document potentially adversely affects trademark applicants' and trademark registrants' intellectual property rights as well as the integrity of the USPTO trademark registration process.

112. Respondent cooperated with OED's investigation by participating in an online interview with OED.

Joint Legal Conclusions

113. 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 (provide competent representation to clients) by, *inter alia*, (1) accepting an unreasonably large volume of clients such that he did not devote sufficient time, attention, and care to reviewing his clients' trademark filings, (2) not adequately reviewing trademark documents that he filed (*e.g.*, failing to properly review specimens to confirm they showed actual use of the mark in commerce), (3) not putting proper procedures in place to ensure compliance with USPTO rules and regulations, and (4) presenting documents (including declarations) to the USPTO that were not signed by the named signatory;

b. 37 C.F.R § 11.102(a) (abide by the client's decision regarding representation and consult with the client as to the means by they are to be pursued) by, *inter alia*, not filing the trademark application for the classes required by [REDACTED];

c. 37 C.F.R § 11.103 (act with reasonable diligence and promptness) by, *inter alia*, (1) not devoting sufficient time to client matters, (2) not putting sufficient procedures in place to ensure his clients' filings were in compliance with the USPTO rules and regulations, (3) presenting documents (including declarations) to the USPTO that were not signed by the named signatory, (4) not adequately reviewing trademark documents that he filed (*e.g.*, failing to properly review specimens to confirm they showed actual use of the mark in commerce), and (5) disregarding or not adequately addressing or responding to issues specifically identified by trademark examining attorneys in Office actions;

d. 37 C.F.R. §§ 11.104(a)(2) and (b) (communicate with clients and reasonably consult with a client about the means by which the client's objectives are to be accomplished) by, *inter alia*, (1) not counseling clients regarding the legal requirements for a trademark application, including the legal requirements for demonstrating the use of a mark in commerce and the difference between a § 1(a) filing and a § 1(b) filing, and (2) not taking reasonable steps to communicate with [REDACTED] to ensure that her trademark application was complete, correct and signed in accordance with the USPTO trademark signature rules;

e. 37 C.F.R. § 11.108(f) (accepting compensation from other than client) by accepting a fee from Nestech 360 Corporation to represent [REDACTED] before the USPTO without consulting with her about the risks attendant to such an arrangement or obtaining her informed consent for such arrangement;

f. 37 C.F.R. § 11.303(d) (in an *ex parte* proceeding, informing the tribunal of all material facts known to the practitioner that will enable the tribunal to make an informed decision, whether or not the facts are adverse) by, *inter alia*, (1) presenting declarations to the USPTO without conducting a reasonable inquiry into the truth of the statements therein, wherein said declarations are relied upon by trademark examining attorneys in the course of evaluating trademark applications, (2) presenting documents (including declarations) to the USPTO that were not signed by the named signatory, and (3) not timely informing the USPTO of such improperly signed documents;

g. 37 C.F.R. § 11.804(c) (conduct involving misrepresentation) by, *inter alia*, (1) presenting false specimens to the USPTO, (2) signing declarations representing that the specimens showed marks as used in commerce, when Respondent had not performed an inquiry reasonable under the circumstances to determine whether the specimens showed the marks as used in commerce, (3) presenting documents (including declarations) to the USPTO that were not signed by the named signatory, and (4) not timely informing the USPTO's Trademark Operations of trademark applications on which Respondent was the attorney of record that were filed with the USPTO wherein the signatures were entered on the application by someone other than the named signatory; and

h. 37 C.F.R. § 11.804(d) (conduct prejudicial to the administration of justice) by engaging in conduct that is prejudicial to the integrity of the USPTO trademark registration process, including (1) presenting specimens that were false (*e.g.*, were mockups or digitally altered), (2) not complying with 37 C.F.R. § 11.18 by not conducting a reasonable inquiry prior to signing and filing trademark documents with the USPTO on behalf of his clients, with the knowledge that the USPTO would rely on such documents and representations made therein in examining the applications, and (3) presenting documents (including declarations) to the USPTO that were not signed by the named signatory.

Agreed-Upon Sanction

114. Respondent freely and voluntarily agrees, and it is hereby ORDERED, that:

- a. Respondent is suspended from practice before the Office for a period of ten (10) months;
- b. Respondent shall comply with 37 C.F.R. § 11.58;
- c. Respondent shall serve a probationary period that commences on the date this Final Order is signed and continues for twelve (12) months from the date of an order granting Respondent's petition for reinstatement to practice before the Office;
- 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,

this 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 an additional ninety (90) days 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 fifteen (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 ninety (90) days 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. While Respondent is on probation, Respondent shall, at least on a bi-weekly basis, (1) search the USPTO's online trademark search system (currently located at <https://tmsearch.uspto.gov/search/search-information>) for applications identifying him as the attorney of record; and (2) promptly inform in writing the USPTO Office of Trademark Examination Policy of each trademark document filing identifying him as the attorney of record that was made without his knowledge or consent;
- h. While Respondent is on probation, Respondent shall, at least every two months, submit a written report to the OED Director stating that he has completed the monthly searches of the USPTO's online trademark search system database, and, as applicable, (i) stating that he identified no applications or other trademark filing in which he was named as the attorney of record that were made without his knowledge and consent or (ii) providing

copies of correspondence sent to the USPTO Office of Trademark Examination Policy as described in the preceding subparagraph;

- i. As a condition of his probation, prior to the end of his probationary period, Respondent shall:
 - (1) enroll in and virtually attend completely each of the eight modules comprising the USPTO's Trademark Basics Boot Camp (located on the USPTO website at <https://www.uspto.gov/about-us/events/trademark-basics-boot-camp>); and
 - (2) provide to the OED Director a declaration, affidavit, or statement in compliance with 28 U.S.C. § 1746 signed by Respondent stating that he has done so;
- j. Effective the date of the suspension, the USPTO is hereby authorized to disable or suspend any USPTO.gov accounts registered to Respondent as of the date of this Final Order approving the Agreement (including all accounts that Respondent has ever established, sponsored, or used in connection with any trademark matter);
- k. Respondent shall not apply for a USPTO verified Electronic System account, shall not obtain a USPTO verified Electronic System account, nor shall he have his name added to a USPTO verified Electronic System account, unless and until he is reinstated to practice before the USPTO;
- l. Upon Respondent's suspension, he shall be barred 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;
- m. 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;
- n. 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 shall be Respondent's sole responsibility to initiate any such re-activation of any such USPTO.gov account;
- o. Respondent shall cooperate fully with the USPTO in any present or future USPTO inquiry made into any persons, associates, or entities with whom Respondent worked in connection with trademark or patent documents submitted to the USPTO.

- p. Nothing in this Final Order 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;
- q. The OED Director shall electronically publish this Final Order publicly including at the OED's electronic FOIA Reading Room, which is publicly accessible through the Office's website at: <https://foiadocuments.uspto.gov/oed/>;
- r. OED Director shall publish a notice publicly including in the Official Gazette that is materially consistent with the following:

Notice of Suspension and Probation

This notice concerns Shan Zhu of Flushing, New York. Mr. Zhu is an attorney licensed in the State of New York (Reg. No. 5661426) who engaged in practice before the United States Patent and Trademark Office ("USPTO") or ("Office") in trademark matters. The USPTO Director has suspended Mr. Zhu from practice before the Office for ten (10) months and placed him on probation for violating 37 C.F.R. §§ 11.101; 11.102(a); 11.103; 11.104(a)(2) and (b); 11.108(f); 11.303(d); and 11.804(c) and (d) of the USPTO Rules of Professional Conduct.

Mr. Zhu routinely represented trademark clients through foreign located third-party intermediary entities. He did not devote sufficient time, attention, and care to reviewing his clients' trademark filings, and he did not adequately communicate and consult with his clients about their trademark matters. Mr. Zhu also did not ensure that trademark filings for which he was counsel of record complied with USPTO rules and regulations. This resulted in the presentation of erroneous and improper filings, including numerous false specimens and documents not in compliance with the USPTO's signature requirements (*e.g.*, trademark declarations not signed by the named signatory). Mr. Zhu also did not communicate with a U.S.-based client about her trademark application, did not advise her about the risks attendant to a third party retaining and paying him fees for representing the client, and did not obtain her consent to the arrangement. This resulted in Mr. Zhu presenting a trademark application that omitted

information that the client wished to include and contained the client's forged signature.

Mr. Zhu has not been previously disciplined by the USPTO, and he represents that he has never been the subject of professional discipline by any court or state bar.

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. (*Available at* www.uspto.gov/trademarks)

The agency publishes online and regularly updates its Trademark Manual of Examining Procedure ("TMEP") (*Available at* tmep.uspto.gov/RDMS/TMEP/current). The TMEP is a guidance document that 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. For example, TMEP § 611.01 provides clear guidance on the agency's signature rules, including that (a) the person(s) identified as the signatory must personally sign the document (e.g., a paralegal, legal assistant, or secretary may not sign or enter the name of an attorney or other authorized signatory), (b) a person may not delegate their authority to sign, and (c) no person may use document-signing software to enter or electronically generate someone else's signature.

The USPTO has 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. For example, the USPTO has a searchable OED FOIA webpage (found at <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 applicable trademark prosecution rules, (b) the provisions of the USPTO Rules of Professional Conduct implicated by such representation, and (c) the potential disciplinary consequences when such provisions of the USPTO Rules of Professional Conduct are violated. The USPTO Director has issued numerous orders imposing discipline on trademark practitioners who violated the USPTO Rules of Professional Conduct based on not complying with USPTO trademark signature rules, not adequately supervising non-attorneys, and/or not fulfilling obligations under 37 C.F.R. § 11.18 to conduct an inquiry reasonable under the circumstances in support of factual assertions made in trademark documents

presented to the USPTO, including:

In re Swyers, Proceeding No. D2016-20 (USPTO Jan. 26, 2017)
In re Meikle, Proceeding No. D2019-17 (USPTO Mar. 21, 2019)
In re Crabtree, Proceeding Nos. D2018-31 & -47 (USPTO Apr. 25, 2019)
In re Sapp, Proceeding No. D2019-31 (USPTO May 15, 2019)
In re Sweeney, Proceeding No. D2019-33 (USPTO June 19, 2019)
In re Mar, Proceeding No. D2019-11 (USPTO Aug. 2, 2019)
In re Rajan, Proceeding No. D2019-30 (USPTO Sep. 5, 2019)
In re Caraco, Proceeding No. D2019-50 (USPTO Sep. 12, 2019)
In re Caldwell, II, Proceeding No. D2020-12 (USPTO Mar. 17, 2020)
In re Bashtanyk, Proceeding No. D2020-09 (USPTO Apr. 17, 2020)
In re Lou, Proceeding No. D2021-04 (USPTO May 12, 2021)
In re Mincov, Proceeding No. D2020-30 (USPTO Aug. 23, 2021)
In re Reddy, Proceeding No. D2021-13 (USPTO Sep. 9, 2021)
In re David, Proceeding No. D2021-08 (USPTO Sep. 24, 2021)
In re Di Li, Proceeding No. D2021-16 (USPTO Oct. 7, 2021)
In re Hom, Proceeding No. D2021-10 (USPTO Dec. 17, 2021)
In re Yang, Proceeding No. D2021-11 (USPTO Dec. 17, 2021)
In re Pasquine, Proceeding No. D2019-39 (USPTO Mar. 28, 2022)
In re Wan, Proceeding No. D2022-04 (USPTO Apr. 11, 2022)
In re Morton, Proceeding No. D2022-07 (USPTO Apr. 20, 2022)
In re Hao, Proceeding No. D2021-14 (USPTO Apr. 27, 2022)
In re Zhang, Proceeding No. D2022-16 (USPTO July 11, 2022)
In re Daoyou Tim Liu, Proceeding No. D2022-03 (USPTO Aug. 9, 2022)
In re Han, Proceeding No. D2022-23 (USPTO Jan. 6, 2023)
In re Song, Proceeding No. D2023-10 (USPTO May 1, 2023)
In re Gallagher, Proceeding No. D2023-08 (USPTO June 23, 2023)
In re Jabbour, Proceeding No. D2023-33 (USPTO Sep. 6, 2023)
In re Wang, Proceeding No. D2023-38 (USPTO Nov. 21, 2023)
In re Niu, Proceeding No. D2023-32 (USPTO Jan. 3, 2024)
In re Huang, Proceeding No. D2023-37 (USPTO Jan. 8, 2024)
In re Bethell, Proceeding No. D2019-42 (USPTO Jan. 27, 2024)
In re Koh, Proceeding No. D2024-07 (USPTO Feb. 7, 2024)
In re Che-Yang Chen, Proceeding No. D2024-01 (USPTO Mar. 20, 2024)
In re Haffner, Proceeding No. D2023-35 (USPTO May 21, 2024)
In re Oldham, Proceeding No. D2024-11 (USPTO May 29, 2024)
In re Harper, Proceeding Nos. D2020-10 and D2024-15 (USPTO Aug. 13, 2024)
In re Yu, Proceeding No. D2024-24 (USPTO Aug. 20, 2024)
In re Khalsa, Proceeding No. D2019-38 (USPTO Sep. 5, 2024)
In re Weitao Chen, Proceeding No. D2024-21 (USPTO Sep. 11, 2024)
In re Campbell, Proceeding No. D2019-41 (USPTO Oct. 10, 2024)
In re Jie Luo, Proceeding No. D2024-02 (USPTO Oct. 25, 2024)
In re Qinghe Liu, Proceeding No. D2023-39 (USPTO Nov. 21, 2024)
In re Angus Ni, Proceeding No. D2024-20 (USPTO Dec. 19, 2024)
In re Okeke, Proceeding No. D2024-18 (USPTO Jan. 6, 2025)

Trademark practitioners should be mindful that the USPTO trademark signature rule requiring the named signatory to enter his or her signature on a trademark document to be presented to the Office is a substantive rule, not a mere technical requirement; therefore, a failure of a named signatory to enter his or her signature on a trademark document potentially adversely affects a trademark applicants' and trademark registrants' intellectual property rights as well as the integrity of the USPTO trademark registration process.

This action is the result of a settlement agreement between Mr. Zhu 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 — including the many who have been disciplined for not complying with the USPTO trademark signature rules and their ethical obligations under the USPTO Rules of Professional Conduct connected with serving as counsel for foreign-domiciled trademark applicants — are posted for public reading at the Office of Enrollment and Discipline Reading Room accessible at: <https://foiadocuments.uspto.gov/oed>.

- s. 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.

Users, Choe,
Tricia

Digitally signed by Users,
Choe, Tricia
Date: 2025.03.18 08:21:27
-04'00'

Tricia Choe
Associate General Counsel for General Law
United States Patent and Trademark Office

Date

on delegated authority by

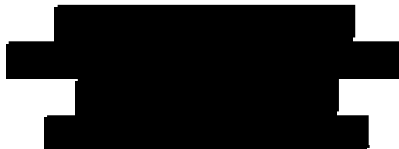
Coke Morgan Stewart
Acting Under Secretary of Commerce for Intellectual Property and
Acting Director of the United States Patent and Trademark Office

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 e-mail:

Shan Zhu



Respondent

Via e-mail:

John Ferman

John.Ferman@uspto.gov

Counsel for the OED Director

3/18/2025

Date

A handwritten signature in black ink, appearing to read "John Ferman", written over a horizontal line.

U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450