

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

In the Matter of

Daniel M. Chambers,

Respondent

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Proceeding No. D2011-07

**FINAL ORDER**

The Director of the Office of Enrollment and Discipline (“OED Director”) for the United States Patent and Trademark Office (“USPTO” or “Office”) and Daniel M. Chambers (“Respondent”) have submitted a Proposed Settlement Agreement to the Under Secretary of Commerce for Intellectual Property and USPTO Director for approval.

The Proposed Settlement 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, mitigating factors, and sanctions to which the OED Director and Respondent have agreed in order to resolve voluntarily the disciplinary complaint against Respondent.

**Jurisdiction**

1. At all times relevant hereto, Respondent of San Diego, California, has been an attorney registered to practice before the USPTO and is subject to the Disciplinary Rules of the USPTO Code of Professional Responsibility set forth at 37 C.F.R. § 10.20 et seq. Respondent’s registration number is 34,561.

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. §§ 11.20 and 11.26.

**Stipulated Facts**

3. At all times relevant hereto, Respondent of San Diego, California, has been an attorney registered to practice before the Office and is subject to the Disciplinary Rules of the USPTO Code of Professional Responsibility set forth at 37 C.F.R. § 10.20 et seq. Respondent’s registration number is 34,561. Respondent is also admitted to practice as an attorney in the state of California (Bar No. 164,826).

4. The USPTO charges patent application fees as well as related patent processing, issuance, and maintenance fees. See generally 37 C.F.R. §§ 1.16 through 1.28.

5. Patent application processing fees may be paid by check, cashier’s check,

money order, or credit card. See 37 C.F.R. § 1.23. They may also be paid via electronic funds transfer from U.S. bank accounts or by an authorization to charge a deposit account if a deposit account has been established with the USPTO. See 37 C.F.R. § 1.25.

6. Fees and charges payable to the USPTO are required to be paid in advance; that is, at the time of requesting any action by the USPTO for which a fee or charge is payable. See 37 C.F.R. § 1.22. Under 37 C.F.R. § 1.53, however, applications for patent may be assigned a filing date without payment of the basic filing fee. See 37 C.F.R. § 1.22.

7. As an experienced patent practitioner, Respondent knew or reasonably should have known that the USPTO charges fees that are to be paid in advance.

8. OED received information from the USPTO Office of Finance that Respondent had submitted to the Office sixteen (16) checks drawn on his law firm's checking account that were returned for insufficient funds. The returned checks totaled twenty-five thousand, four hundred, and fifty-five dollars (\$25,455.00). Respondent signed and submitted the checks for payment of required fees on behalf of clients in patent applications between March 6, 2006, and August 8, 2008.

9. Respondent admits that he did not always keep adequate track of the funds deposited into and disbursed from his law firm's checking account. Consequently, he inadvertently issued the aforementioned checks to the USPTO that were subsequently returned due to insufficient funds.

10. Respondent undertook remedial action prior to receipt of notice of OED's investigation of the matter to ensure that the conduct described herein should never reoccur, including (i) utilizing on-line banking services to obtain real time account balance information, (ii) using credit or debit cards for USPTO fees and only rarely using checks, and (iii) maintaining a deposit account to cover any unforeseen fee deficiencies. Respondent made good on the returned checks and paid the returned check processing fees. Respondent represents that he informed his clients about the matter. Respondent has voluntarily completed a three-hour Client Trust Account School sponsored by the State Bar of California.

### **Legal Conclusions**

11. Based on the information contained in paragraphs 3 through 10 above, Respondent acknowledges that, by signing and submitting checks to the Office drawn on insufficient funds that were subsequently returned when the USPTO presented the checks for payment, he violated Disciplinary Rules of the USPTO Code of Professional Responsibility, namely: 37 C.F.R. §§ 10.23(b)(5) (proscribing conduct prejudicial to the administration of justice) and 10.23(b)(6) (proscribing engaging in conduct reflecting adversely on a practitioner's fitness to practice).

### **Mitigating Factors**

12. Respondent has been a registered patent practitioner for over 20 years without prior disciplinary history and has unequivocally accepted responsibility for his bookkeeping errors.

### **Agree Upon Sanction**

13. Respondent agreed, and it is ORDERED that:

- a. Respondent be, and hereby is, suspended for a period of twenty-four (24) months from the practice of patent, trademark, and non-patent law before the USPTO commencing on the date this Final Order is signed and (ii) the suspension be immediately stayed as of the date this Final Order is signed and that the stay remain in effect until further order of the USPTO Director;
- b. Respondent shall serve a twenty-four month probationary period commencing on the date this Final Order is signed;
- c. Respondent shall be permitted to practice patent, trademark, and other non-patent law before the USPTO during his probationary period unless the stay of the suspension is lifted by order of the USPTO Director;
- d. If the stay of the suspension is not lifted by order of the USPTO Director by the end of the probationary period, Respondent is not required to serve the suspension and this matter will be concluded;
- e. 37 C.F.R. §§ 11.58 and 11.60 do not apply unless the USPTO Director lifts the stay of the suspension.
- f. (1) in the event that the OED Director is of the opinion that Respondent, during the probationary period, failed to comply with any provision of this Final Order or any Disciplinary Rule of the USPTO Code of Professional Responsibility, the OED Director shall:

(a) issue to Respondent an Order to Show Cause why the USPTO Director should not order that the stay of the suspension be lifted and Respondent be immediately suspended for up to twenty-four (24) months for the violations set forth in paragraph 11, above;

(b) send the Order to Show Cause to Respondent at the last address of record Respondent furnished to the OED Director pursuant to 37 C.F.R. § 11.11(a); and

(c) grant Respondent fifteen (15) days to respond to the Order to show cause;

and

(2) in the event after the 15-day period for response and consideration of the response, if any, received from Respondent, the OED Director continues to be of

the opinion that Respondent, during the twenty-four month probationary period, failed to comply with any provision of this Final Order or any Disciplinary Rule of the USPTO Code of Professional Responsibility, 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, and (iii) argument evidence causing the OED Director to be of the opinion that Respondent failed to comply with any provision of this Final Order or any Disciplinary Rule of the USPTO Code of Professional Responsibility during the probationary period, and

(b) request that the USPTO Director immediately lift the stay of the suspension and suspend Respondent for up to twenty-four (24) months for the violations set forth in paragraph 11, above;

g. Directs that, if, Respondent is suspended pursuant to the provisions of subparagraph f, above:

(1) Respondent shall comply with 37 C.F.R. § 11.58;

(2) the OED Director shall disseminate information in accordance with 37 C.F.R. § 11.59;

(3) USPTO shall promptly dissociate Respondent's name from all USPTO customer numbers and Public Key Infrastructure (PKI) certificates;

(4) Respondent shall not use any USPTO customer number or a PKI certificate unless and until he is reinstated to practice before the USPTO; and

(5) Respondent may not obtain a USPTO customer number or a PKI certificate unless and until he is reinstated to practice before the USPTO;

h. In the event that the USPTO Director lifts the stay of the suspension and Respondent seeks a review of the USPTO Director's decision to lift the stay, any such review shall not operate to postpone or otherwise hold in abeyance the immediate suspension of Respondent;

i. Nothing in the proposed Settlement Agreement or this Final Order shall prevent the Office from seeking discipline against Respondent in accordance with the provisions of 37 C.F.R. §§ 11.34 through 11.57 for the misconduct that caused the stay of the suspension to be lifted;

j. The OED Director shall publish this Final Order at the Office of Enrollment and Discipline's Reading Room electronically;

k. The OED Director shall publish the following Notice of Stayed Suspension in the

**Notice of Stayed Suspension**

Daniel M. Chambers of San Diego, California, a registered patent attorney (Registration Number 34,561). Mr. Chambers has been suspended for twenty-four (24) months with the entirety of the suspension stayed and placed on probation for a period of twenty-four (24) months by the United States Patent and Trademark Office ("Office") for violating 37 C.F.R. §§ 10.23(b)(5) and 10.23(b)(6). Mr. Chambers is permitted to practice before the Office during his probation unless the stay of the suspension is lifted.

Mr. Chambers signed and submitted to the Office sixteen (16) checks drawn on his law firm's checking account that were returned for insufficient funds. The returned checks totaled twenty-five thousand, four hundred, and fifty-five dollars (\$25,455.00). Mr. Chambers made good on the returned checks, paid the returned check processing fees, and undertook remedial action to ensure that the conduct should never reoccur. Mr. Chambers has also voluntarily completed a three-hour Client Trust Account School taught by the State Bar of California.

Mr. Chambers has been a registered patent practitioner for over 20 years without prior disciplinary history and has unequivocally accepted responsibility for his bookkeeping errors. These mitigating factors are reflected in the agreed-upon discipline imposed in this case.

This action is the result of a settlement agreement between Mr. Chambers and the OED Director pursuant to 35 U.S.C. §§ 2(b)(2)(D) and 32, and 37 C.F.R. §§ 11.20, 11.26, and 11.59. Disciplinary decisions involving practitioners are posted for public reading at the Office of Enrollment and Discipline's Reading Room located at: <http://des.uspto.gov/Foia/OEDReadingRoom.jsp>

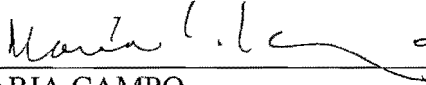
- l. Pursuant to 37 C.F.R. § 11.59, the OED Director shall give notice of the public discipline and the reasons for the discipline to disciplinary enforcement agencies in the state(s) where Respondent is admitted to practice, to courts where Respondent is known to be admitted, and to the public;
- m. Nothing in this Proposed Settlement Agreement 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 brought to the attention of the Office, and/or (2) in any future disciplinary proceeding (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

- n. The OED Director and Respondent shall each bear their own costs incurred to date and in carrying out the terms of this agreement.

AUG - 3 2011

Date



MARIA CAMPO

Acting Deputy General Counsel for General Law  
United States Patent and Trademark Office

on behalf of

David M. Kappos

Under Secretary of Commerce for Intellectual Property and  
Director of the United States Patent and Trademark Office

cc:

Director of the Office of Enrollment and Discipline  
U.S. Patent and Trademark Office

Daniel M. Chambers  
BioTechnology Law Group  
12707 High Bluff Drive  
Suite 200  
San Diego, CA 92130-2037

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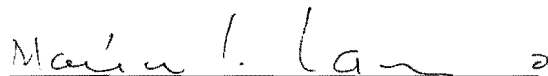
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