

On June 21, 2017, the Director of the USPTO attempted to serve on Respondent at the address in Charlotte, NC provided by Mr. Lola to the Director of the Office of Enrollment and Discipline (“OED Director”), as well as a second address in Winston-Salem, NC where the OED Director reasonably believes Mr. Lola receives mail, by certified first-class mail (tracking nos. 70160910000045132122 and 70160910000045132115, respectively), a “Notice and Order Pursuant to 37 C.F.R. § 11.24” (“Notice and Order”) notifying Respondent that the OED Director had filed a “Complaint for Reciprocal Discipline Pursuant to 37 C.F.R. § 11.24” (“Complaint”) requesting that the Director of the USPTO impose reciprocal discipline upon Respondent identical to the discipline imposed by the Supreme Court of California in *In re David James Lola*, S234402.

The Notice and Order sent to the Charlotte, NC and Winston-Salem, NC addresses were unable to be delivered to Respondent by the United States Postal Service, and was subsequently returned to the USPTO marked "Return to Sender." Accordingly, the OED Director served the Respondent by publication of a notice in the *Official Gazette* for two consecutive weeks, pursuant to 37 C.F.R. § 11.35(b). This notice appeared in the August 8, 2017 and August 15, 2017 issues of the *Official Gazette*, and informed Respondent that he could obtain a copy of the Notice and Order by sending a request to the General Counsel of the USPTO.

Respondent had an opportunity to file a response opposing the imposition of reciprocal discipline identical to that imposed by the Supreme Court of California, based on one or more of the reasons provided in 37 C.F.R. § 11.24(d)(1). Respondent has not filed a response to the Notice and Order.

Analysis

In light of Respondent's failure to file a response, it is hereby determined that there is no genuine issue of material fact under 37 C.F.R. § 11.24(d), and exclusion of Respondent from practice before the USPTO in patent, trademark, and other non-patent matters is the appropriate discipline.

ACCORDINGLY, it is hereby **ORDERED** that:

1. Respondent be excluded from the practice of patent, trademark, and other non-patent law before the USPTO, effective the date of this Final Order;
2. The OED Director publish a notice in the *Official Gazette* materially consistent with the following:

Notice of Exclusion

This notice concerns David James Lola of Charlotte, North Carolina, who is a registered patent attorney (Registration Number 55,400). In a

reciprocal disciplinary proceeding, Joseph D. Matal, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office ("USPTO") has ordered that Mr. Lola be excluded from practice before the USPTO in patent, trademark, and other non-patent matters for violating 37 C.F.R. § 11.804(h), predicated upon being disbarred from the practice of law by a duly constituted authority of a State.

The Supreme Court of California disbarred Mr. Lola after his default was entered for failing to respond to a notice of disciplinary charges. The notice of disciplinary charges addressed Mr. Lola's failure to cooperate with a State Bar of California disciplinary investigation. An attorney's failure to cooperate with a disciplinary investigation pending against him is a violation of Section 6068 of the California Business and Professions Code.

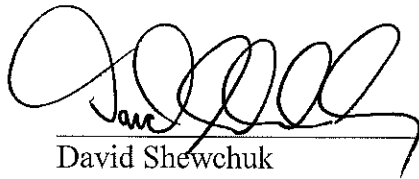
This action is taken pursuant to the provisions of 35 U.S.C. § 32 and 37 C.F.R. § 11.24. Disciplinary decisions are available for public review at the Office of Enrollment and Discipline's FOIA Reading Room, located at: <http://e-foia.uspto.gov/Foia/OEDReadingRoom.jsp>.

3. The OED Director give notice pursuant to 37 C.F.R. § 11.59 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;
4. Respondent shall comply with the duties enumerated in 37 C.F.R. § 11.58;
5. The USPTO dissociate Respondent's name from any Customer Numbers and the public key infrastructure ("PKI") certificate associated with those Customer Numbers; and
6. Respondent shall not apply for a USPTO Customer Number, shall not obtain a USPTO Customer Number, nor shall he have his name added to a USPTO Customer Number, unless and until he is reinstated to practice before the USPTO.

[Signature page follows]

28 Sept 2017

Date



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

on behalf of

Joseph D. Matal
Performing the Functions and Duties of the
Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office

cc:

OED Director

Mr. David James Lola
Law Office of David J. Lola
100 North Tryon Street
Suite B220 PMB 273
Charlotte, North Carolina 28202

Mr. David James Lola

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