

BEFORE THE UNDER SECRETARY OF COMMERCE
FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE
UNITED STATES PATENT AND TRADEMARK OFFICE

HARRY I. MOATZ,	)	
Director, Office of	)	
Enrollment and Discipline,	)	
	)	Request for Reconsideration
	)	Proceeding No. 00-07
	)	
GEORGE KERSEY	)	
Respondent	)	

MEMORANDUM AND ORDER ON RECONSIDERATION

George E. Kersey (Respondent) requests reconsideration under 37 C.F.R. § 10.156(c) of the Final Decision entered on June 14, 2002. The Final Decision was taken in an Appeal by the Director of the Office of Enrollment and Discipline (OED) of the Initial Decision by the Administrative Law Judge (ALJ) (*Moatz v. Kersey*, Proceeding 00-07). The OED Director appealed only that part of the Initial Decision concerning the sanction imposed by the ALJ which was a letter of reprimand for violations of USPTO Disciplinary Rules 10.23(c)(5), 10.23(c)(20) and 10.24. The Final Decision imposed a six-month suspension from practice before the USPTO. Respondent requests reconsideration of this Final Decision, raising the following principal arguments:

1. That the Appeal taken by the Director of OED was untimely and without authority.

2. That the General Counsel lacks authority to either decide appeals from the Initial Decision of the ALJ or to issue a Final Decision in proceedings under 35 U.S.C. § 32.
3. That Respondent did not violate the above-cited Disciplinary Rules.

DISCUSSION

Respondent's arguments regarding the timeliness and the authority of the Director of the USPTO and the General Counsel to decide the appeal have been fully addressed in the Final Decision and provide no basis or justification for modifying that decision. As to Respondent's argument that he did not violate any Disciplinary Rule, Respondent did not appeal the findings of the ALJ, who found by clear and convincing evidence that Respondent did violate DR 10.23 and 10.24, (Initial Decision at 25-26). Because this issue was not properly raised before the Director prior to the Final Decision, it cannot be considered in this request for reconsideration.

Thus Respondent's Request presents no justification for reconsidering the Final Decision of June 14, 2002.

DECISION

For the foregoing reasons, respondent's request for reconsideration is *denied*. This is a final agency action.

ORDER

Pursuant to 37 C.F.R. § 10.130(a), it is

ORDERED that Respondent's request for reconsideration be denied and that the suspension ordered in the Final Decision of June 14, 2002, take effect thirty (30) days from the date of entry of this order;

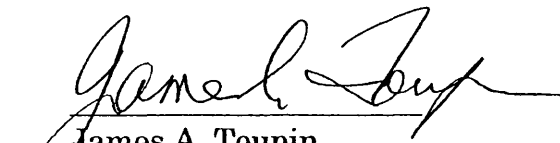
FURTHER ORDERED that the Director of OED publish a copy of the Final Decision of June 14, 2002, this decision and order, and the Initial Decision of the ALJ, in the Official Gazette.

Date: October 27, 2002

APPEAL RIGHTS

Respondent is entitled to seek judicial review on the record in the U.S. District Court for the District of Columbia under 35 U.S.C. § 32 and LCvR 83.7 of the U.S. District Court for the District of Columbia within thirty (30) days of the date of entry of this memorandum opinion and order on reconsideration.

On behalf of James E. Rogan
Under Secretary of Commerce For
Intellectual Property and
Director of the United States Patent and
Trademark Office

A handwritten signature in black ink, appearing to read "James A. Toupin", is written over a horizontal line.

James A. Toupin
General Counsel
United States Patents and Trademarks Office