

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

In the Matter of:

Thomas V. Malorzo,

Respondent

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Proceeding No. D2011-65

FINAL ORDER PURSUANT TO 37 C.F.R. § 11.24

Pursuant to 37 C.F.R. § 11.24(d), the suspension of Thomas V. Malorzo, (Respondent) is hereby ordered for violation of the ethical standard set out in 37 C.F.R. § 10.23(b)(6).

Background

On February 25, 2011, in *Commission for Lawyer Discipline v. Thomas V. Malorzo*, Case No. D0110836151, the State Bar of Texas suspended Respondent for violating Texas Disciplinary Rules of Professional Conduct 1.14(a), 1.14(b) and 8.04(a)(3).

On December 15, 2011, a "Notice and Order Under 37 C.F.R. § 11.24" (Notice and Order) mailed by certified mail (receipt no. 70111150000146351383), informed Respondent that the Deputy General Counsel for Enrollment and Discipline and Director of the Office of Enrollment and Discipline (OED Director) had filed a "Complaint for Reciprocal Discipline Under 37 C.F.R. § 11.24" (Complaint) requesting that the Director of the United States Patent and Trademark Office (USPTO or Office) impose reciprocal discipline upon Respondent identical to the discipline imposed by the State Bar of Texas in *Commission for Lawyer Discipline v. Thomas V. Malorzo*, Case No. D0110836151. The Notice and Order was delivered to Respondent on December 19, 2011.

The Notice and Order provided Respondent an opportunity to file, within forty days, a response opposing, based on one or more of the reasons provided in 37 C.F.R. § 11.24(d)(1), the imposition of reciprocal discipline identical to that imposed by the State Bar of Texas. 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: (1) there is no genuine issue of material fact under 37 C.F.R. § 11.24(d) and (2) suspension of Respondent is appropriate.

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

- A. Respondent (a) be suspended from the practice of patent, trademark, and other non-patent law before the USPTO for four years effective the date of this Final Order and (b) has the right to request reinstatement under 37 C.F.R. § 11.60 after serving two years of his suspension, and upon reinstatement, Respondent will serve a two year period of probation;
- B. If there is a reinstatement, Respondent shall be permitted to practice trademark and other non-patent law before the USPTO during the two year period of probation, provided that Respondent otherwise satisfies the conditions of 37 C.F.R. § 11.14(a) and unless Respondent is suspended during his probation by order of the USPTO Director;
- C. (1) in the event that the OED Director is of the opinion that Respondent, during the two-year probationary period, failed to comply with any provision of the 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 Respondent be immediately suspended for up to an additional two years for the alleged violations;
 - 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 days to respond to the Order to Show Cause; and
- (2) in the event that, after the fifteen-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 two-year probationary period, failed to comply with any provision of the 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 and evidence causing the OED Director to be of the opinion that Respondent failed to comply with any provision of the Final Order or any Disciplinary Rule of the USPTO Code of Professional Responsibility during the two-year probationary period, and
 - b. request that the USPTO Director immediately suspend Respondent for up to an additional two years for the violations set forth in the Order to Show Cause;
- D. The OED Director publish the following Notice in the *Official Gazette*:

NOTICE OF SUSPENSION

This concerns Thomas V. Malorzo of Dallas, Texas, a registered patent attorney (Registration Number 29,947). In a reciprocal disciplinary proceeding, Mr. Malorzo has been suspended for four years from the practice of patent, trademark, and other non-patent law before the United States Patent and Trademark Office for violating 37 C.F.R. § 10.23(b)(6) via 37 C.F.R. § 10.23(c)(5)(i) when he was

suspended on ethical grounds from the practice of law in the State of Texas. After completing two years of his suspension, Mr. Malorzo may request reinstatement and, if reinstated, will serve a two year period of probation. During the two-year probation, Mr. Malorzo would be permitted to practice patent law before the USPTO, and trademark and non-patent law, provided he satisfies 37 C.F.R. §§ 11.14(a), and unless he is suspended during his probation by order of the USPTO Director.

The State Bar of Texas issued an order dated February 25, 2011, in *Commission for Lawyer Discipline v. Thomas V. Malorzo*, Case No. D0110836151, suspending Mr. Malorzo from the practice of law for a period of four years, actively suspending Mr. Malorzo from the practice of law for a period of two years beginning March 15, 2011, and ending March 14, 2013, followed by a two-year period of probated suspension beginning March 15, 2013 and ending on March 14, 2015. The State Bar of Texas suspended Mr. Malorzo for failing to safeguard funds belonging to a third party while acting as a settlement agent in a closing transaction, failing to promptly deliver to the third party the funds it was entitled to receive, and by engaging in conduct involving dishonesty, fraud, deceit or misrepresentation.

This action is taken pursuant to the provisions of 35 U.S.C. §§ 2(b)(2)(D) and 32, and 37 C.F.R. §§ 11.24 and 11.59. Disciplinary decisions are available for public review at the Office of Enrollment and Discipline's Reading Room located at: <http://des.usp.gov/Foia?OEDReadingRoom.jsp>.

- E. 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; and

F. Such other and further relief as the nature of this cause shall require.

FEB 22 2012

Date


James O. Payne
Deputy General Counsel for General Law
United States Patent and Trademark Office

on behalf of

David Kappos
Under Secretary of Commerce For Intellectual
Property and Director of the United States Patent
and Trademark Office

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Date



JAMES O. PAYNE
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