

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

In the Matter of)
)
Malik N. Drake)
)
Respondent.)
_____)

Proceeding No.: D2006-08

FINAL ORDER

The Director of Enrollment and Discipline (OED Director) of the United States Patent and Trademark Office (USPTO) and Malik N. Drake, Respondent, USPTO Registration No. 54,839, have submitted a settlement agreement in the above proceeding. In order to avoid the necessity of an oral hearing, Respondent and the OED Director have agreed to certain stipulated facts, legal conclusions, and discipline.

JURISDICTION

At all times relevant hereto, Respondent, of Virginia, has been an attorney registered to practice before the United States Patent and Trademark Office (USPTO), Registration No. 54,839, engaging in the prosecution of patent applications before the USPTO, and subject to the USPTO Disciplinary Rules.

STIPULATED FACTS

1. Drake was employed as an examiner in Group Art Unit 3744 until July 10, 2004 when he left the USPTO.
2. After Drake's separation from the USPTO, the office he occupied at PK 1-11/1100/D/55 was searched. Drake's office contained papers he had left behind related to operation of a personal business not related to intellectual property.
3. The papers in Drake's office included a letter dated September 3, 2002 to [Person 1] from [Person 2]. There was a note that [Person 1] gave friend authority to accept offers, and that [Person 3] had bad credit. The papers also included a fee engagement letter apparently signed by Drake and [Person 1].
4. Based on the information found in the his office, the USPTO computer in Drake's office was subsequently searched. A document on the hard drive titled "Bill for Services Rendered" dated May 14, 2002, to [Person 1]. The "Professional Services Rendered" included an "office conference with [Person 1] concerning her property.

5. The hard drive for Drake's computer also contained an email to [Person 4]. On July 16, 2002, Drake emailed [Person 4] using the USPTO email service regarding [Person 4]'s zoning and permit issues for the property he owned.
6. A July 16, 2002, letter to [Person 5] of Planning Information Services in Maryland, stated that Drake was retained by [Person 4] to handle various property issues and that he was "unsure of the procedures that would be required to bring [his] client into compliance" with the county's zoning laws.
7. On July 22, 2002, using the USPTO email service, Drake emailed [Person 4] and stated that he "just got a call from the county."

LEGAL CONCLUSIONS

8. Based upon the foregoing stipulated facts, Respondent agreed that his conduct violated the following Disciplinary Rules of the Code of Professional Responsibility as outlined in 37 C.F.R. § 10.23(b)(4) by using Government equipment to engage in activities related to Drake's law practice.

DISCIPLINE

9. Respondent agreed, and it is ordered that:
 - a. Respondent be reprimanded.
 - b. The OED Director will publish the following Notice in the Official Gazette:

Notice of Reprimand

Malik N. Drake, of Virginia, a patent attorney, with registration number 54,839, has been reprimanded by the United States Patent and Trademark Office. The reprimand is issued pursuant to the provisions of 35 U.S.C. § 32, and 37 C.F.R. § 10.133(g).

11/27/06
Date

/s/
James A. Toupin
General Counsel
United States Patent and Trademark
Office
on behalf of
Jon W. Dudas
Under Secretary of Commerce For
Intellectual Property and Director
of the United States Patent and
Trademark Office

cc: Harry I. Moatz
Office of Enrollment and Discipline
USPTO

Malik Drake
[Address]