

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

In the Matter of	)	
	)	
Erik B. Jensen,	)	Proceeding No. D2009-46
	)	
Respondent	)	
_____	)	

**Final Order**

Office of Enrollment and Discipline Director Harry I. Moatz (“OED Director”) and Erik B. Jensen (“Respondent”) have submitted a Proposed Settlement Agreement to the Under Secretary of Commerce for Intellectual Property and Acting Director of the United States Patent and Trademark Office (“USPTO Director”) or his designate for approval.

The OED Director and Respondent’s Proposed Settlement Agreement sets forth certain stipulated facts, legal conclusions, and sanctions to which the OED Director and Respondent have agreed in order to resolve voluntarily a disciplinary complaint against Respondent. The Proposed Settlement Agreement, which satisfies the requirements of 37 C.F.R. § 11.26, resolves all disciplinary action by the United States Patent and Trademark Office (“USPTO” or “Office”) arising from the stipulated facts set forth below.

Pursuant to such Proposed Settlement Agreement, this Final Order sets forth the parties’ stipulated facts, legal conclusions, and agreed upon discipline.

**Jurisdiction**

At all times relevant hereto, Respondent of Philadelphia, Pennsylvania, has been an attorney licensed and in good standing to practice law in the Commonwealth of Pennsylvania and, therefore, authorized under 5 U.S.C. § 500(b) to practice before the United States Patent and Trademark Office (“USPTO” or “Office”). Respondent is a “practitioner” as defined by 37 C.F.R. § 10.1(r)(2) 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.*

The USPTO Director has jurisdiction over this matter pursuant to 35 U.S.C. § 2(b)(2)(D) and 37 CFR §§ 11.20(a)(3) and 11.26.

**Stipulated Facts**

1. At all times relevant hereto, Respondent of Philadelphia, Pennsylvania, has been an attorney licensed and in good standing to practice law in the Commonwealth of Pennsylvania (PA Attorney ID 40330) and, therefore, authorized under 5 U.S.C. § 500(b) to practice before the USPTO. Accordingly, Respondent is a “practitioner” as defined by 37

C.F.R. § 10.1(r)(2) 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.*

2. Respondent represents others before the USPTO in trademark cases.

3. As a practitioner, Respondent is bound by the USPTO Code of Professional Responsibility and is subject to disciplinary action for violating its Disciplinary Rules. See 37 C.F.R. § 10.20(b).

4. Under USPTO rules of practice, an attorney may not delegate authority for a non-lawyer to sign documents to be filed with the Office. See 37 C.F.R. § 11.18(a). Additionally, The Trademark Manual of Examining Procedure (TMEP) specifically states that an authorized signatory must personally sign his/her name and another person, such as a paralegal, legal assistant, or secretary, may not sign the name of an attorney. See TMEP § 611.01(b).

5. Respondent was hired by a client to prepare, file and prosecute a USPTO application. In turn, and with the consent of the client, Respondent contracted with the M. Burr Keim Company to carry out those responsibilities.

6. The M. Burr Keim Company employee assigned to the trademark application for Respondent's client was not a licensed attorney.

7. Respondent was aware that the M. Burr Keim Company employee was not an attorney and, therefore, Respondent understood that he was responsible for overseeing the M. Burr Keim Company employee's work.

8. On behalf of Respondent's client, the M. Burr Keim Company employee prepared the trademark application, listed the M. Burr Keim Company address as the correspondence address for Office communications, and identified himself as the point of contact for the application. The employee signed and filed the application in the Office. Thereafter, the employee corresponded directly with the Office about the matter by preparing, signing, and filing a response to the Office action.

9. Respondent knew or should have known that the M. Burr Keim Company employee's actions constituted the unauthorized practice of trademark law before the USPTO.

### **Legal Conclusion**

10. Based on the information contained in paragraphs 1 through 9, above, Respondent acknowledges that his conduct violated 37 C.F.R. § 10.47 (aiding unauthorized practice of law), by negligently allowing the M. Burr Keim Company employee to practice trademark law before the USPTO.

## Sanctions

11. Respondent agreed, and it is ORDERED that:
  - a. Respondent be, and hereby is, publicly reprimanded;
  - b. The OED Director shall publish this Final Order;
  - c. The OED Director shall publish the following Notice in the *Official Gazette*:

### Notice of Reprimand

Erik B. Jensen of Philadelphia, Pennsylvania, an attorney licensed by the Commonwealth of Pennsylvania.

Mr. Jensen has been publicly reprimanded by the United States Patent and Trademark Office (“USPTO” or “Office”) for violating 37 C.F.R. § 10.47 by aiding another in the unauthorized practice of law before the Office.

Mr. Jensen is authorized to practice trademark law before the Office, but he is not a registered patent practitioner and is not authorized to practice patent law before the Office.

With his client’s consent, Mr. Jensen hired a corporation service company to assist him in filing a trademark application for the client. Mr. Jensen knew that the company’s employee assigned to work on the application was not an attorney, but Mr. Jensen permitted the employee to sign and file trademark papers in the Office, including the application and a reply to an Office communication. Mr. Jensen knew or should have known that the actions of the company’s employee constituted the unauthorized practice of trademark law before the USPTO.

This action is the result of a settlement agreement between Mr. Jensen and the OED Director pursuant to the provisions of 35 U.S.C. § 2(b)(2)(D) and 37 C.F.R. §§ 11.26 and 11.59. Disciplinary decisions involving practitioners are posted at the Office of Enrollment and Discipline’s Reading Room located at:

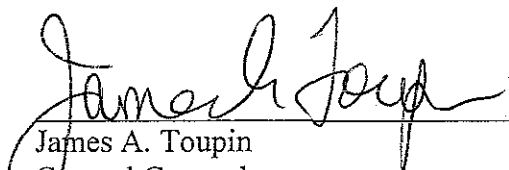
<http://des.uspto.gov/Foia/OEDReadingRoom.jsp>.

- d. The OED Director shall give notice of public discipline and the reasons for the discipline to disciplinary enforcement agencies in the State where the practitioner is admitted to practice, to courts where the practitioner is known to be admitted, and the public; and

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

FEB 18 2010

Date

  
James A. Toupin  
General Counsel  
United States Patent and Trademark Office

on behalf of

David Kappos  
Undersecretary of Commerce for Intellectual Property and  
Director of the United States Patent and Trademark Office

cc:

Harry I. Moatz  
Director Office of Enrollment and Discipline  
U.S. Patent and Trademark Office  
Mail Stop OED  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Erik B. Jensen  


Notice of Reprimand

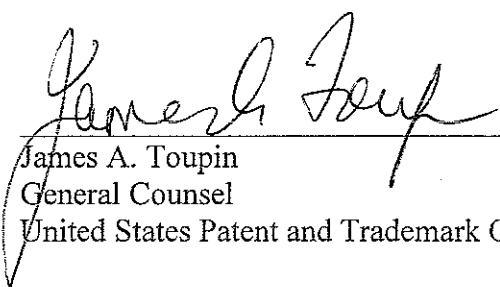
Erik B. Jensen of Philadelphia, Pennsylvania, an attorney licensed by the Commonwealth of Pennsylvania. Mr. Jensen has been publicly reprimanded by the United States Patent and Trademark Office ("USPTO" or "Office") for violating 37 C.F.R. § 10.47 by aiding another in the unauthorized practice of law before the Office. Mr. Jensen is authorized to practice trademark law before the Office, but he is not a registered patent practitioner and is not authorized to practice patent law before the Office.

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James A. Toupin  
General Counsel  
United States Patent and Trademark Office

on behalf of

David Kappos  
Undersecretary of Commerce for Intellectual  
Property and Director of the United States Patent  
and Trademark Office