

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

In the Matter of:)
)
Matthew P. Vincent,)
)
Respondent)
)
)
)
_____)

Proceeding No. D2009-58

FINAL ORDER

Pursuant to 37 C.F.R. § 11.27, the Director of the United States Patent and Trademark Office (“USPTO” or “Office”) received for review and approval from the Director of Enrollment and Discipline an Affidavit of Resignation from Matthew P. Vincent (“Respondent”), a registered patent agent. For the reasons set forth herein, Respondent’s Affidavit of Resignation is approved, and Respondent is excluded on consent from the practice of patent, trademark, and other non-patent law before the Office.

Jurisdiction

At all times relevant hereto, Respondent of Boston, Massachusetts, has been a registered patent agent (Registration No. 36,709) and subject to the USPTO Disciplinary Rules.

Pursuant to of 35 U.S.C. §§ 2(b)(2)(D) and 32 and 37 C.F.R. § 11.27, the USPTO Director has the authority to approve Respondent’s Affidavit of Resignation and to exclude Respondent on consent from the practice of patent, trademark, and other non-patent law before the Office.

Respondent’s Affidavit of Resignation

Respondent acknowledges in his Affidavit of Resignation:

1. His resignation is freely and voluntarily rendered, that he is not being subjected to

coercion or duress, and that he is fully aware of the implications of submitting his resignation.

2. He is waiving proceedings before a hearing officer by submitting the Affidavit of Resignation.

3. The Director of the Office of Enrollment and Discipline will file the Affidavit of Resignation with the USPTO Director for review and approval, and, upon approval, the USPTO Director will enter an order excluding Respondent on consent and providing other appropriate actions, and upon entry of the final order, Respondent will be required to comply with the requirements set forth in 37 C.F.R. § 11.58.

4. Respondent acknowledges that he is aware that there is presently pending an investigation into allegations that he has engaged in misconduct (as described below in "Facts Under Investigation"), that he does not wish to contest the facts at issue in this investigation, and that he could be excluded from practice before the USPTO if the matters were litigated.

5. Respondent agrees not to contest the facts set forth in the Affidavit of Resignation (restated below in "Facts Under Investigation"). Respondent understands and acknowledges that he has the right to be represented by counsel in these proceedings, and he is represented by counsel with whom he is satisfied.

6. Respondent understands that he may not petition for reinstatement for five years and acknowledges that, if and when he applies for reinstatement under 37 C.F.R. § 11.60, the OED Director will conclusively presume, for the limited purpose of determining the application for reinstatement, that (i) the facts on upon which the investigation is based are true and (ii) that Respondent could not have successfully defended himself against the allegations in the investigation.

Facts Under Investigation

Respondent's Affidavit of Resignation contains the following relevant averments:

1. Respondent customarily billed his clients at an hourly rate for legal services and also billed for expenses incurred. Throughout his practice of patent law, he routinely had occasion to employ independent patent research firms to examine patent databases and to extract and deliver relevant scientific journal articles and other documents. These independent research firms billed for their time and access charges and submitted the bills to Respondent for approval. Respondent then submitted the bills to his law firm's accounting department for payment, and the payments were billed to the clients in the normal course.

2. At some time prior to April 2002, Respondent formed a business entity known as "The IP Resource Company" to perform patent database searches, giving as an address a post office box in Boston. Respondent did not inform either his law partners or clients that he was the owner and operator of The IP Resource Company.

3. Beginning in approximately April 2002 and continuing through approximately September 2008, Respondent prepared and submitted to his law firm for payment sixty separate invoices from The IP Resource Company, each invoice relating to multiple patent matters. The invoices that Respondent prepared stated, in summary form, that The IP Resource Company had performed research tasks on a total of approximately 3,449 separate client matters and was entitled to payment of a total of \$733,771.30 for those services. The invoices did not itemize costs, services rendered, dates on which services were rendered, or time spent.

4. Respondent approved each of the sixty invoices for payment and forwarded them to his

law firm's accounting department. Relying on his approval, his law firm paid the invoices and billed the appropriate clients for the service. Respondent endorsed the checks for deposit and caused them to be deposited in an account for his personal use. Respondent never maintained or did not retain the underlying billing records for the invoices submitted by The IP Resource Company, and he cannot satisfactorily account for costs incurred and services rendered.

5. After learning that he owned The IP Resource Company, the law firm intends to reimburse all clients in full for charges paid by clients for costs and services billed by The IP Resource Company.

Exclusion on Consent

Based on the foregoing, the USPTO Director has determined that Respondent's Affidavit of Resignation complies with the requirements of 37 C.F.R. § 11.27(a). Accordingly, it is ORDERED that:

- A. Respondent's Affidavit of Resignation shall be, and hereby is, approved;
- B. The Respondent shall be, and hereby is, excluded on consent from the practice of patent, trademark, and other non-patent law before the Office beginning on the date of this Final Order;
- C. Respondent shall be, and hereby is, granted limited recognition to practice before the Office for a period of thirty (30) days beginning on the date of this Final Order and expiring thirty (30) days after the date of this Final Order for the sole purpose of winding up all client business;
- D. Respondent, during the time of his limited recognition, shall wind up all client business before the Office and withdraw from employment in all pending proceedings in accordance with 37 C.F.R. § 10.40;

E. Respondent, during the time of his limited recognition, shall not accept any new clients having business before the Office during the 30 days of limited recognition afforded by this Final Order;

F. the OED Director shall publish this Final Order at the Office of Enrollment and Discipline's Reading Room electronically located at:

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

G. the OED Director shall publish the following notice in the Official Gazette:

Notice of Exclusion on Consent

Matthew P. Vincent of Newburyport, Massachusetts, a registered patent agent (Registration Number 36,709). Mr. Vincent has been excluded on consent from the practice of patent, trademark, and non-patent law before the Office by the United States Patent and Trademark Office ("USPTO"). Mr. Vincent submitted an Affidavit of Resignation conforming to the requirements of 37 C.F.R. § 11.27 in which he acknowledged that he was under investigation for allegedly violating the one or more USPTO Disciplinary Rules and that he did not wish to contest the facts at issue.

At the time Mr. Vincent submitted his Affidavit of Resignation, the USPTO was investigating Mr. Vincent for forming a business entity to perform patent database searches without informing his law partners or clients that he was the owner and operator of such business entity and preparing and submitting to his law firm for payment sixty separate invoices from such business entity with each invoice relating to multiple patent matters. The invoices that Mr. Vincent prepared stated, without itemization, that such business entity had performed research tasks on a total of approximately 3,449 separate client matters and was entitled to payment of a total of \$733,771.30 for those services. Mr. Vincent approved each of the sixty invoices for payment and forwarded them to his firm's accounting department. Relying on his approval, his firm paid the invoices and billed the appropriate clients for the service. Respondent endorsed the checks for deposit and caused them to be deposited in an account for his personal use. Respondent cannot satisfactorily account for costs incurred and services rendered by such business entity.

This action is taken with Mr. Vincent's consent, as evidenced by his affidavit, and pursuant to the provisions of 35 U.S.C. §§ 2(b)(2)(D)

and 32, and 37 C.F.R. §§ 11.27 and 11.59. Disciplinary decisions involving practitioners are posted for public reading at the Office of Enrollment and Discipline's Reading Room located at:
<http://des.uspto.gov/Foia/OEDReadingRoom.jsp>.

H. Respondent shall comply fully with 37 C.F.R. § 11.58 while excluded;

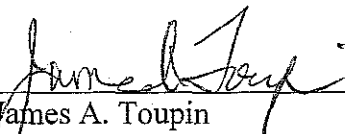
I. The OED Director, in accordance with 37 C.F.R. § 11.59, shall give notice of the public discipline and the reasons for the discipline to disciplinary enforcement agencies in the State where the practitioner is admitted to practice, to courts where the practitioner is known to be admitted, and the public;

J. Respondent shall comply fully with 37 C.F.R. § 11.60 upon any request for reinstatement; and

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

OCT 26 2009

Date


James A. Toupin
General Counsel
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

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

Robert J. Muldoon, Jr.
Sherin and Lodgen, LLP
101 Federal Street
Boston, MA 02110
Counsel for Respondent

Notice of Exclusion on Consent

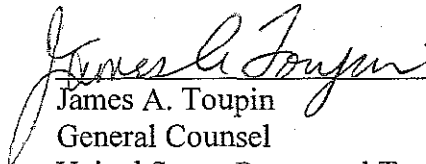
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At the time Mr. Vincent submitted his Affidavit of Resignation, the USPTO was investigating Mr. Vincent for forming a business entity to perform patent database searches without informing his law partners or clients that he was the owner and operator of such business entity and preparing and submitting to his law firm for payment sixty separate invoices from such business entity with each invoice relating to multiple patent matters. The invoices that Mr. Vincent prepared stated, without itemization, that such business entity had performed research tasks on a total of approximately 3,449 separate client matters and was entitled to payment of a total of \$733,771.30 for those services. Mr. Vincent approved each of the sixty invoices for payment and forwarded them to his firm's accounting department. Relying on his approval, his firm paid the invoices and billed the appropriate clients for the service. Respondent endorsed the checks for deposit and caused them to be deposited in an account for his personal use. Respondent cannot satisfactorily account for costs incurred and services rendered by such business entity.

This action is taken with Mr. Vincent's consent and pursuant to the provisions of 35 U.S.C. §§ 2(b)(2)(D) and 32, and 37 C.F.R. §§ 11.27 and 11.59. Disciplinary decisions involving practitioners are posted for public reading at the Office of Enrollment and Discipline's Reading Room located at:
<http://des.uspto.gov/Foia/OEDReadingRoom.jsp>.

OCT 26 2009

Date


James A. Toupin
General Counsel
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

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE OF ENROLLMENT AND DISCIPLINE

AFFIDAVIT OF RESIGNATION SUBMITTED BY

MATTHEW P. VINCENT

PURSUANT TO 37 C.F.R. § 11.27

I, Matthew P. Vincent, who was duly admitted to practice before the United States Patent and Trademark Office ("PTO") on 19 April 1993 (No. 36709) hereby state that I desire to resign my enrollment from the PTO pursuant to 37 C.F.R. § 11.27.

I further aver and attest as follows:

1. My resignation is freely and voluntarily rendered, I am not being subjected to coercion or duress, and I am fully aware of the implications of submitting my resignation. I understand that, upon receipt of this affidavit, the Director of the Office of Enrollment and Discipline ("OED") will file it with the PTO Director for review and approval. Upon such approval, the PTO Director will enter an order excluding me on consent and providing other appropriate actions. Upon entry of the order, I will comply with the requirements set forth in 37 C.F.R. § 11.58. By submitting this affidavit of resignation, I have waived proceedings before a hearing officer.
2. I am aware that there is presently pending an investigation into allegations that I have engaged in misconduct, as described below.
3. I do not wish to contest the facts at issue in this investigation, and I understand that I could be excluded from practice before the PTO if the matters were litigated.
4. I agree not to contest the facts set forth herein. My agreement not to contest these facts extends to this or any other bar disciplinary proceeding in any jurisdiction, to any reinstatement proceeding in any jurisdiction, and to any admission proceeding in any jurisdiction.
5. By submitting this affidavit of resignation, I understand that I may not petition for reinstatement for five years. I acknowledge that if and when I apply for reinstatement under 37 C.F.R. § 11.60, the OED Director will conclusively presume, for the limited purpose of determining the application for reinstatement, that: (i) the facts upon which the investigation is

based are true, and (ii) that I could not have successfully defended myself against the allegations in the investigation.

6. I understand and acknowledge that I have the right to be represented by counsel in these proceedings, and I am represented by counsel with whom I am satisfied.

7. I am not now suffering from any physical disability or condition which would impair my understanding of the allegations and proceeding against me, the voluntariness of this action, or my full understanding of the consequences of the execution of this affidavit.

8. At all relevant times, I was a partner in the Boston office of a large law firm with approximately 1000 lawyers.

9. I am a registered patent attorney. Throughout my practice, I have specialized in patents and related matters, primarily in the pharmaceutical, biotechnology, and medical device industries.

10. I customarily billed my clients at an hourly rate for legal services and also billed for expenses incurred.

11. Throughout my practice of patent law, I routinely had occasion to employ independent patent research firms to examine patent databases and to extract and deliver relevant scientific journal articles and other documents. These independent research firms billed for their time and access charges and submitted the bills to the respondent for approval. I then submitted the bills to the firm's accounting department for payment, and the payments were billed to the clients in the normal course.

12. At some time prior to April, 2002, I formed a business entity known as "The IP Resource Company" to perform patent database searches, giving as an address a post office box in Boston.

13. I did not inform either my law partners or clients that I was the owner and operator of The IP Resource Company.

14. Beginning in approximately April, 2002, and continuing through approximately September, 2008, I prepared and submitted to my law firm for payment sixty separate invoices from The IP Resource Company, each invoice relating to multiple patent matters.

15. The invoices that I prepared stated, in summary form, that The IP Resource Company had performed research tasks on a total of approximately 3449 separate client matters and was entitled to payment of a total of \$733,771.30 for those services. The invoices did not itemize costs, services rendered, dates on which services were rendered, or time spent.

16. I approved each of the sixty invoices for payment and forwarded them to my firm's accounting department.

17. Relying on my approval, my firm paid the invoices and billed the appropriate clients for the service.

18. I endorsed the checks for deposit and caused them to be deposited in an account for my personal use.

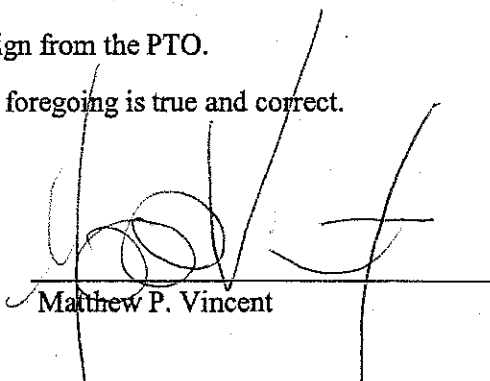
19. I either never maintained or did not retain the underlying billing records for the invoices submitted by The IP Resource Company, and I cannot satisfactorily account for costs incurred and services rendered.

20. After learning that I owned The IP Resource Company, the law firm intends to reimburse all clients in full for charges paid by clients for costs and services billed by The IP Resource Company.

I hereby request that I be permitted to resign from the PTO.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 28, 2009.



Matthew P. Vincent