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

In the Matter of	)	
	)	
Audi Gozlan,	)	Proceeding No. D2013-16
	)	
Respondent	)	
	)	

FINAL ORDER

The Director of the Office of Enrollment and Discipline ("OED Director") for the United States Patent and Trademark Office ("USPTO" or "Office") and Audi Gozlan ("Respondent") have submitted a Proposed Settlement Agreement ("Agreement") to the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office ("USPTO Director") for approval.

Jurisdiction

1. At all times relevant hereto, Respondent of Montreal, Quebec, has been a Canadian attorney who has practiced before the Office in trademark matters pursuant to 37 C.F.R. § 10.14(c) and 11.14(c), and is subject to the USPTO Disciplinary Rules set forth at 37 C.F.R. § 10.20 *et seq.* as well as the USPTO Rules of Professional Conduct found at 37 C.F.R. §§ 11.101 through 11.901.[1]

2. The USPTO Director has jurisdiction over this matter pursuant to 35 U.S.C. §§ 2(b)(2)(D) and 37 C.F.R. §§ 11.19 and 11.26.

Stipulated Facts

Background

3. Respondent of Montreal, Quebec, is an attorney licensed to practice law in Canada. He has practiced before the Office in trademark matters pursuant to the authority granted to him by 37 C.F.R. § 11.14(c) (and its predecessor § 10.14(c)) to represent individuals and business entities located in Canada. Respondent is subject to the USPTO Disciplinary Rules set forth at 37 C.F.R. § 10.20 *et seq.* and 37 C.F.R. §§ 11.101 through 11.901.

4. Respondent filed trademark applications on behalf of individuals or business entities that are not located in Canada. Specifically, he filed five applications where the owner of

[1] The USPTO Code of Professional Responsibility is applicable to events that occurred prior to May 3, 2013. *See* 37 C.F.R. § 10.20 *et seq.* The USPTO Rules of Professional Conduct apply to events that occurred on or after May 3, 2013. *See* 37 C.F.R. §§ 11.101 through 11.901. Respondent's misconduct is predicated on actions that took place under both sets of rules.

the trademark was not a Canadian citizen and resided outside of Canada, two where the trademark owner was a Canadian citizen who did not reside in Canada, one for a trademark owner of unknown citizenship who did not reside in Canada, and eight for business entities which did not have their corporate domicile or their principal place of business in Canada.

5. In three trademark applications filed by Respondent, he submitted and signed a declaration with the following language: "[t]he signatory has confirmed that he/she is a Canadian attorney/agent, or an associate thereof, who represents an applicant located in Canada ...." This statement was false.

6. Respondent continued to represent individuals and business entities not located in Canada even after a disciplinary complaint was filed against him, but has now withdrawn from all such applications.

7. Respondent represents that: At all times, I was acting in good faith. I thought I could work for Canadians who operate their businesses in Canada and in the USA. I have never tried to deceive or mislead the USPTO in any way. I thought that I could do work for Canadians wherever they are and never realized that they had to also have been located exclusively in Canada.

Joint Legal Conclusions

8. Respondent acknowledges that, based on the above stipulated facts, he violated 37 C.F.R. § 10.23(b)(5) by, before May 3, 2013, representing before the Office trademark applicants who are not located in Canada.

9. Respondent acknowledges that, based on the above stipulated facts, he violated 37 C.F.R. § 11.804(d) by, after May 3, 2013, continuing to represent before the Office trademark applicants who are not located in Canada.

Agreed Upon Sanction

10. Respondent agrees, and it is hereby ORDERED that:

a. Respondent is hereby reprimanded;

b. Respondent shall serve a one year probationary period commencing on the date the Final Order is signed;

c. Respondent shall be permitted to practice trademark law on behalf of individuals and companies located in Canada before the USPTO during his probationary period unless his probation is revoked and he is suspended by order of the USPTO Director;

d. In the event the OED Director is of the opinion that Respondent, during the probationary period, failed to comply with any provision of the

Agreement, this Final Order, or any Disciplinary Rule of the USPTO Rules of Professional Responsibility, the OED Director shall:

(i) issue to Respondent an Order to Show Cause why the USPTO Director should not order that Respondent be immediately suspended for up to thirty (30) days for the violations set forth in paragraphs 8 and 9, above;

(ii) send the Order to Show Cause to Respondent at the last address of record Respondent furnished to the Office of Enrollment and Discipline; and

(iii) grant Respondent fifteen (15) calendar days to respond to the Order to Show Cause;

e. In the event that after the 15-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 probationary period, failed to comply with any provision of the Agreement, this Final Order, or any Disciplinary Rule of the USPTO Rules of Professional Responsibility, the OED Director shall:

(i) deliver to the USPTO Director or his designee: (A) the Order to Show Cause; (B) Respondent's response to the Order to Show Cause, if any; and (C) argument and evidence causing the OED Director to be of the opinion that Respondent failed to comply with any provision of the Agreement, this Final Order, or any Disciplinary Rule of the USPTO Rules of Professional Responsibility during the probationary period, and

(ii) request that the USPTO Director immediately suspend Respondent for up to thirty (30) days for the violations set forth in paragraph 16, above;

f. In the event the USPTO Director suspends Respondent pursuant to subparagraph e., above, and Respondent seeks a review of the suspension, any such review of the suspension shall not operate to postpone or otherwise hold in abeyance the suspension;

g. The OED Director to publish the Final Order at the OED's electronic FOIA Reading Room, which is publicly accessible through the Office's website at: http://e-foia.uspto.gov/Foia/OEDReadingRoom.jsp;

h. The OED Director to publish the following notice in the *Official Gazette*:

Notice of Reprimand and Probation

This notice regards Audi Gozlan of Montreal, Quebec, a Canadian attorney who has practiced before the United States Patent and Trademark Office ("USPTO" or "Office"). The Office has reprimanded Mr. Gozlan and placed him on probation for one year, for violating 37 C.F.R. §§ 10.23(b)(5) and 11.804(d). Mr. Gozlan is permitted to practice trademark law on behalf of individuals and companies located in Canada before the Office during his probationary period unless he is subsequently suspended or excluded by order of the USPTO Director.

Mr. Gozlan is a Canadian attorney who held limited authority to represent certain applicants for trademark registration before the Office. Specifically, Mr. Gozlan is only authorized to represent Canadian individuals and business entities located in Canada. He exceeded his limited authority by filing trademark applications on behalf of individuals and entities not located in Canada. Some of these applications were for individuals who were not Canadian residents and others were for Canadian residents who did not reside in Canada. Other applications were filed on behalf of business entities which were not domiciled in Canada and which did not have their principal place of business in Canada.

Canadian attorneys authorized to practice before the Office pursuant to 37 C.F.R. § 11.14(c) (or its predecessor § 10.14(c)) may only represent Canadian businesses or individuals located in Canada. They may not represent a Canadian national who resides in the United States but has access to a mailing address in Canada. *See* TMEP § 602.03(a). Nor may they represent a business entity unless its corporate domicile or principal place of business is in Canada.

This action is the result of a settlement agreement between Mr. Gozlan 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 OED's Reading Room located at: http://e-foia.uspto.gov/Foia/OEDReadingRoom.jsp.

i. Nothing in this Final Order shall prevent the Office from considering the record of this disciplinary proceeding, including the Final Order:

(i) when addressing any further complaint or evidence of the same or similar misconduct brought to the attention of the Office; and/or

(ii) in any future disciplinary proceeding against Respondent (A) as an aggravating factor to be taken into

consideration in determining any discipline to be imposed and/or (B) to rebut any statement or representation by or on Respondent's behalf; and/or

j. The OED Director and Respondent shall file a joint motion dismissing the USPTO disciplinary proceeding pending against Respondent within fourteen days after entry of any Final Order approving this Agreement; and

k. The OED Director and Respondent shall each bear their own costs incurred to date and in carrying out the terms of the Agreement and this Final Order.

Jennifer R. Sept for
JAMES O. PAYNE
Deputy General Counsel for General Law
United States Patent and Trademark Office

JAN 30 2014
Date

on behalf of

Michelle Lee
Deputy Under Secretary of Commerce for Intellectual Property and
Deputy Director of the United States Patent and Trademark Office

cc:

Director of the Office of Enrollment and Discipline
United States Patent and Trademark Office

Audi Gozlan
c/o M. Scott Alprin
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Washington, D.C. 20015