

UNITED STATES OF AMERICA  
PATENT AND TRADEMARK OFFICE  
BEFORE THE ADMINISTRATIVE LAW JUDGE

THE DIRECTOR OF THE OFFICE OF ENROLLMENT AND  
DISCIPLINE FOR THE UNITED STATES PATENT AND  
TRADEMARK OFFICE,

COMPLAINANT,

v.

JAMES D. IVEY,

RESPONDENT.

Proceeding No. D2013-22

March 7, 2014

**INITIAL DECISION ON DEFAULT JUDGEMENT**

The above-entitled matter is before this Court on a *Motion for Entry of Default Judgment and Imposition of Disciplinary Sanction* (“Default Motion”), filed on December 23, 2013, by the U.S. Patent and Trademark Office (“USPTO,” “Office,” or “Government”). Respondent James D. Ivey (“Respondent”) has failed to file a timely answer to the USPTO’s initial *Complaint*. This Court is authorized to hear this proceeding and to issue this *Initial Decision* pursuant to 37 C.F.R. §§ 11.19 and 11.39.<sup>1</sup>

USPTO regulations state that such a failure to respond constitutes an admission of all allegations and “may result in entry of default judgment.” 37 C.F.R. § 11.36(e). As Respondent has not filed any response, the *Default Motion* will be **GRANTED**.

**PROCEDURAL HISTORY**

The USPTO filed the initial *Complaint and Notice of Proceedings Under 35 U.S.C. § 32* (“Complaint”) on October 25, 2013. The Director of the Office of Enrollment and Discipline (“OED Director”) served the *Complaint* on Respondent’s attorney via U.S. certified mail.<sup>2</sup> Someone in the attorney’s office signed the certified mail receipt on October 28, 2013. Accordingly, Respondent was properly served with the *Complaint* as of October, 28, 2013.

<sup>1</sup> Pursuant to an Interagency Agreement in effect beginning March 27, 2013, Administrative Law Judges of the U.S. Department of Housing and Urban Development are authorized to hear cases for the U.S. Patent and Trademark Office.

<sup>2</sup> As Respondent was known to be represented by an attorney, service of the complaint was required to be made upon the attorney only. 37 C.F.R. § 11.35(c). For other papers, the requirement for service on Respondent’s attorney is the same. 37 C.F.R. § 11.42(a).

The *Complaint* notified Respondent that he had 30 days to file a response, and that “[a] decision by default may be entered against Respondent if a written answer is not timely filed.” An answer was therefore due no later than November 26, 2013. Counsel for the OED Director avers she contacted Respondent’s attorney in early December 2013 by letter, phone and email and reiterated that an answer was overdue, and that the OED Director would pursue default. Nonetheless, Respondent’s attorney has not filed an Answer or requested an extension.

On December 23, 2013, the OED Director filed the *Default Motion*, asserting that Respondent had failed to respond to the *Complaint*. To date, Respondent has not filed any answer to the *Complaint* or to the *Default Motion*.<sup>3</sup>

## DEFAULT

Part 11 of Title 37 of the Code of Federal Regulations states that “[f]ailure to timely file an answer will constitute an admission of the allegations in the complaint and may result in a default judgment.” 37 C.F.R. § 11.36(e). Respondent in this matter has failed to timely submit an answer after being properly served with the *Complaint*. Accordingly, Respondent is deemed to have admitted each of the factual allegations recounted below.

## FINDINGS OF FACT

1. Respondent has been registered as a patent attorney since April 19, 1993. Respondent’s registration number is 37,016.
2. Respondent is a member of the California State Bar, but was administratively suspended on July 1, 2009, for reasons unrelated to the instant proceeding.
3. Respondent’s acts and omissions were willful.
4. On July 13, 2011, Respondent and Mr. █████ entered into an engagement agreement for legal services. Mr. █████ sent Respondent a \$3,500 advance check for said services.
5. Respondent prepared and filed U.S. Patent Application No. █████ (“the █████ application”) on █████ for Mr. █████.
6. Respondent billed Mr. █████ \$3,002.50 for legal services rendered related to the application. The bill was in addition to the \$3,500 already paid to him.
7. Mr. █████ paid the \$3,002.50 bill on September 19, 2011.
8. On September 19, 2011, the USPTO issued a Notice to File Missing Parts in the █████ application, citing deficiencies including the omission of the statutory basic filing fee and the omission of an oath or declaration under 37 C.F.R. § 1.63.

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<sup>3</sup> The *Complaint*, the Court’s *Notice of Hearing and Order*, and the *Default Motion* were all served on Attorney Merri A. Baldwin, (of the law firm of Rogers Joseph O’Donnell), whom the OED Director asserts is known to be representing Respondent Ivey. Neither this attorney, nor her law firm, have filed an entry of appearance as required by the *Notice of Hearing and Order*, or otherwise communicated with the Court.

9. The Notice to File Missing Parts was mailed to Respondent's address listed on the application: 3025 Totterdell Street, Oakland, CA 94611-1724 ("the Totterdell Street address").
10. The Office also sent Respondent an e-mail, and later a postcard, both indicating that there was new correspondence relating to the [REDACTED] application.
11. Respondent neither sent the Notice to File Missing Parts to Mr. [REDACTED] nor responded to the Notice to File Missing Parts.
12. On May 31, 2012, the USPTO issued a Notice of Abandonment of the [REDACTED] application.
13. The Notice of Abandonment was sent to Respondent's Totterdell Street address.
14. Respondent did not advise Mr. [REDACTED] of the Notice of Abandonment or send the Notice of Abandonment to Mr. [REDACTED].
15. On July 26, 2012, Mr. [REDACTED] sent Respondent an e-mail inquiring about the status of the application.
16. Respondent did not respond to the e-mail inquiry.
17. On August 2, 2012, Mr. [REDACTED] called Respondent to request a status update on the application.
18. Respondent told Mr. [REDACTED] that he would check up on the application and inform Mr. [REDACTED] of the application's status.
19. Respondent already knew the application had been abandoned, but did not so inform Mr. [REDACTED].
20. On August 12, 2012, Mr. [REDACTED] sent Respondent another e-mail inquiring about the status of the application.
21. Respondent did not respond to the second e-mail.
22. On September 6, 2012, Mr. [REDACTED] filed a complaint with the California State Bar against Respondent.
23. The State Bar Court of California imposed a two-year stayed suspension on Respondent, effective August 23, 2013, for misconduct related to the representation of Mr. [REDACTED].
24. The State Bar Court order stated "[a] statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under 'facts.'"
25. The order contained a stipulation by Respondent that he received the Notice to File Missing Parts and the Notice of Abandonment related to Mr. [REDACTED]'s application and that he neither responded to the notices nor notified Mr. [REDACTED] of the notices.

26. Around September 2005, Phillip Shin hired Respondent to prepare and file a patent application for his invention.
27. Respondent prepared and filed U.S. Patent Application No. 11/551,638 (“the ‘638 application”) on October 20, 2006, for Mr. Shin.
28. On November 16, 2006, USPTO issued a Notice to File Missing Parts, citing deficiencies including the omission of the statutory basic filing fee and the omission of an oath or declaration under 37 C.F.R. § 1.63.
29. On January 11, 2007, Respondent filed a response to the Notice; he paid the required fees and provided a declaration under 37 C.F.R. § 1.63 naming Jong Phil Shin<sup>4</sup> as the sole inventor.
30. On August 3, 2010, the USPTO issued a non-final Office action, which set a three-month period for reply and warned that failure to reply will cause the application to become abandoned.
31. The Office action was mailed to Respondent’s Totterdell Street address.
32. The Office also sent Respondent an e-mail, and later a postcard, both indicating that there was new correspondence relating to the ‘638 application.
33. Respondent did not respond to the non-final Office action or send the non-final Office action to Mr. Shin.
34. On March 2, 2011, the USPTO issued a Notice of Abandonment of the ‘638 application.
35. The Notice of Abandonment was mailed and e-mailed to Respondent.
36. Respondent neither responded to the Notice of Abandonment nor sent the Notice of Abandonment to Mr. Shin.
37. On March 24, 2010, Mr. Shin sent an e-mail to Respondent inquiring about the status of the application.
38. Respondent did not respond to the e-mail.
39. Around August 2001, [REDACTED], [REDACTED], and [REDACTED] (collectively, the “[REDACTED] application inventors”) hired Respondent to prepare and file a patent application for their invention.
40. Respondent prepared and filed U.S. Patent Application No. [REDACTED] (“the [REDACTED] application”) on [REDACTED].
41. On October 29, 2010, the USPTO issued a Notice to File Missing Parts, citing deficiencies including the omission of the statutory basic filing fee and the omission of an oath or declaration under 37 C.F.R. § 1.63.
42. The Notice to File Missing Parts was mailed to Respondent’s Totterdell Street address.

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<sup>4</sup> Jong Phil Shin was the inventor’s name at the time the patent application was filed. He later became a United States citizen and changed his legal name to Phillip Shin.

43. The Office also sent Respondent an e-mail indicating that there was new correspondence relating to the [REDACTED] application.
44. On July 14, 2011, the USPTO issued a Notice of Abandonment of the [REDACTED] application.
45. The Notice of Abandonment was mailed and e-mailed to Respondent.
46. Respondent did not inform the [REDACTED] application inventors that the patent application had been abandoned and did not send the Notice of Abandonment to them.
47. [REDACTED] e-mailed Respondent multiple times to inquire about the application.
48. Respondent did not respond to any e-mails about the [REDACTED] application after December 2010.
49. Around August 2007, [REDACTED] and [REDACTED] (collectively, the “[REDACTED] inventors”) hired Respondent to prepare and file a patent application for their invention.
50. Respondent prepared and filed U.S. Patent Application No. [REDACTED] (“the [REDACTED] application”) on [REDACTED].
51. On November 24, 2008, the USPTO filed a Notice to File Missing Parts, citing deficiencies including the omission of the statutory basic filing fee and the omission of an oath or declaration under 37 C.F.R. § 1.63.
52. The Notice to File Missing Parts was mailed to Tribute Tower, 409 13<sup>th</sup> Street, 11<sup>th</sup> Floor, Oakland, CA 94612 (“Tribute Tower address”), which was the address listed for Respondent on the application.
53. On August 3, 2009, the USPTO issued a Notice of Abandonment.
54. The Notice of Abandonment was mailed to Respondent’s Tribute Tower address.
55. The Notice of Abandonment was returned as undeliverable, stating that Respondent was no longer at that address.
56. Respondent did not respond to the Notice of Abandonment or send it to the [REDACTED] inventors.
57. Mr. [REDACTED] contacted Respondent requesting information on the status of the application.
58. Respondent did not respond to Mr. [REDACTED]’s inquiries.
59. [REDACTED], [REDACTED], and [REDACTED] are employees of [REDACTED] Corporation (“[REDACTED]”) and, as employees, are required to assign to [REDACTED] any patent rights they obtain.
60. [REDACTED] hired and paid Respondent to prepare and file several patent applications for Mr. [REDACTED], Dr. [REDACTED] and Mr. [REDACTED].
61. Around April 2010, [REDACTED] hired Respondent to file a patent application for a [REDACTED] invention [REDACTED].
62. Respondent prepared and filed U.S. Patent Application No. [REDACTED] (“the [REDACTED] application”) on [REDACTED].
63. On June 17, 2011, the USPTO filed a Notice to File Missing Parts, citing deficiencies including the omission of the statutory basic filing fee and the omission of an oath or declaration under 37 C.F.R. § 1.63.

64. The Notice to File Missing Parts was mailed to Respondent's Totterdell Street address.
65. The Office also sent Respondent an e-mail, and later a postcard, both indicating that there was new correspondence relating to the [REDACTED] application.
66. Respondent did not respond to the Notice to File Missing Parts or send it to [REDACTED].
67. On February 28, 2012, the USPTO issued a Notice of Abandonment of the [REDACTED] application.
68. The Notice of Abandonment was mailed and e-mailed to Respondent.
69. Respondent did not inform [REDACTED] that the patent application had been abandoned or send the Notice of Abandonment to [REDACTED].
70. Mr. [REDACTED] and others e-mailed Respondent multiple times in regards to the [REDACTED] application during 2011 and 2012.
71. Respondent did not respond to any of the e-mails about the [REDACTED] application.
72. Around April 2010, [REDACTED] hired Respondent to prepare and file a patent application for its [REDACTED] invention [REDACTED].
73. Respondent prepared and filed U.S. Patent Application No. [REDACTED] ("the [REDACTED] application") on [REDACTED].
74. On October 27, 2010, the USPTO filed a Notice to File Missing Parts, citing deficiencies including the omission of the statutory basic filing fee and the omission of an oath or declaration under 37 C.F.R. § 1.63.
75. The Notice to File Missing Parts was mailed to Respondent's Totterdell Street address.
76. The Office also sent Respondent an e-mail indicating that there was new correspondence relating to the [REDACTED] application.
77. Respondent did not send the Notice to File Missing Parts to [REDACTED].
78. On January 5, 2011, Respondent e-mailed Mr. [REDACTED] stating that additional fees and signatures were required.
79. [REDACTED] paid the fees and Mr. [REDACTED] provided the requested signatures.
80. Respondent did not respond to the Notice to File Missing Parts.
81. On July 8, 2011, the USPTO issued a Notice of Abandonment of the [REDACTED] application.
82. The Notice of Abandonment was mailed and e-mailed to Respondent.
83. Respondent did not inform [REDACTED] that the patent application had been abandoned or send the Notice of Abandonment to [REDACTED].
84. Mr. [REDACTED] and others e-mailed Respondent multiple times in regards to the [REDACTED] application during 2011 and 2012.
85. Respondent did not respond to any of the e-mails about the [REDACTED] application.

86. Around April 2010, [REDACTED] hired Respondent to prepare and file a patent application for its [REDACTED] invention [REDACTED].
87. Respondent prepared and filed U.S. Patent Application No. [REDACTED] (“the [REDACTED] application”) on [REDACTED].
88. On October 27, 2010, the USPTO filed a Notice to File Missing Parts, citing deficiencies including the omission of the statutory basic filing fee and the omission of an oath or declaration under 37 C.F.R. § 1.63.
89. The Notice to File Missing Parts was mailed to Respondent’s Totterdell Street address.
90. The Office also sent Respondent an e-mail indicating that there was new correspondence relating to the [REDACTED] application.
91. Respondent did not send the Notice to File Missing Parts to [REDACTED].
92. On January 5, 2011, Respondent e-mailed Dr. [REDACTED] stating that fees were due and signatures were required.
93. [REDACTED] paid the fees and Dr. [REDACTED] provided the requested signatures.
94. Respondent did not respond to the Notice to File Missing Parts.
95. On July 7, 2011, the USPTO issued a Notice of Abandonment of the [REDACTED] application.
96. The Notice of Abandonment was mailed and e-mailed to Respondent.
97. Respondent did not inform [REDACTED] that the patent application had been abandoned or send the Notice of Abandonment to [REDACTED].
98. Mr. [REDACTED] and others e-mailed Respondent multiple times to inquire about the [REDACTED] application during 2011 and 2012.
99. Respondent did not respond to any of the e-mails about the [REDACTED] application.
100. Around April 2010, [REDACTED] hired Respondent to prepare and file a patent application for its [REDACTED] invention [REDACTED].
101. On June 22, 2011, Mr. [REDACTED] asked Respondent to provide him a draft of the patent application, and Respondent replied that he had not “been able to work on it yet for cash flow reasons.”
102. Respondent prepared and filed U.S. Patent Application No. [REDACTED] (“the [REDACTED] application”) on [REDACTED].
103. On February 10, 2012, the USPTO filed a Notice to File Missing Parts, citing deficiencies including the omission of the statutory basic filing fee and the omission of an oath or declaration under 37 C.F.R. § 1.63.
104. The Notice to File Missing Parts was mailed to Respondent’s Totterdell Street address.
105. The Office also sent Respondent an e-mail, and later a postcard, both indicating that there was new correspondence relating to the [REDACTED] application.
106. Respondent did not send the Notice to File Missing Parts to [REDACTED].

107. On January 5, 2011, Respondent e-mailed Mr. [REDACTED] stating that additional fees and signatures were required.
108. [REDACTED] paid the fees and Mr. [REDACTED] provided the requested signatures.
109. Respondent did not respond to the Notice to File Missing Parts.
110. On October 22, 2012, the USPTO issued a Notice of Abandonment of the [REDACTED] application.
111. The Notice of Abandonment was mailed and e-mailed to Respondent.
112. Respondent did not inform [REDACTED] that the patent application had been abandoned or send the Notice of Abandonment to [REDACTED].
113. During 2011 and 2012, Mr. [REDACTED] and others e-mailed Respondent multiple times in regards to the application.
114. Respondent did not respond to their e-mail inquiries.
115. Around April 2010, [REDACTED] hired Respondent to prepare and file a patent application for its invention [REDACTED].
116. Respondent prepared and filed U.S. Patent Application No. [REDACTED] (“the [REDACTED] application”) on [REDACTED].
117. On January 5, 2011, the USPTO filed a Notice to File Missing Parts, citing deficiencies including the omission of the statutory basic filing fee and the omission of an oath or declaration under 37 C.F.R. § 1.63.
118. The Notice to File Missing Parts was mailed to Respondent’s Totterdell Street address.
119. The Office also sent Respondent an e-mail, and later a postcard, both indicating that there was new correspondence relating to the [REDACTED] application.
120. Respondent did not send the Notice to File Missing Parts to [REDACTED].
121. Respondent did not respond to the Notice to File Missing Parts.
122. On September 16, 2011, the USPTO issued a Notice of Abandonment of the [REDACTED] application.
123. The Notice of Abandonment was mailed and e-mailed to Respondent.
124. Respondent did not inform [REDACTED] that the patent application had been abandoned or send the Notice of Abandonment to [REDACTED].
125. During 2011 and 2012, Mr. [REDACTED] and others e-mailed Respondent multiple times in regards to the application.
126. Respondent did not respond to their e-mail inquiries.
127. Around April 2010, [REDACTED] hired Respondent to prepare and file a patent application for its invention [REDACTED].
128. Respondent prepared and filed U.S. Patent Application No. [REDACTED] (“the [REDACTED] application”) on [REDACTED].



129. On September 10, 2010, the USPTO filed a Notice to File Missing Parts, citing deficiencies including the omission of the statutory basic filing fee and the omission of an oath or declaration under 37 C.F.R. § 1.63.
130. The Notice to File Missing Parts was mailed to Respondent's Totterdell Street address.
131. The Office also sent Respondent an e-mail, and later a postcard, both indicating that there was new correspondence relating to the [REDACTED] application.
132. Respondent did not send the Notice to File Missing Parts to [REDACTED].
133. On January 5, 2011, Respondent e-mailed Dr. [REDACTED] stating that fees were due and signatures were required.
134. [REDACTED] paid the fees and Dr. [REDACTED] provided the requested signatures.
135. Respondent did not respond to the Notice to File Missing Parts.
136. On May 23, 2011, the USPTO issued a Notice of Abandonment of the [REDACTED] application.
137. The Notice of Abandonment was mailed and e-mailed to Respondent.
138. Respondent did not inform [REDACTED] that the patent application had been abandoned or send the Notice of Abandonment to [REDACTED].
139. On August 24, 2011, Respondent filed a "Petition for Revival of an Application for Patent Abandoned Unintentionally" ("Petition to Revive").
140. Dr. [REDACTED] signed the petition on January 7, 2011.
141. The Petition to Revive was granted on September 2, 2011.
142. On July 20, 2012, the USPTO issued a non-final Office action, which set a three-month period for reply and warned that failure to reply will cause the application to become abandoned.
143. The Office action was mailed to Respondent's address of record on the application.
144. Respondent did not respond to the non-final Office action or send the non-final Office action to [REDACTED].
145. On March 22, 2013, the USPTO issued a Notice of Abandonment of the [REDACTED] application.
146. The Notice of Abandonment was mailed and e-mailed to Respondent.
147. Respondent did not inform [REDACTED] that the patent application had been abandoned or send the Notice of Abandonment to [REDACTED].
148. During 2011 and 2012, Mr. [REDACTED] and others e-mailed Respondent multiple times in regards to the application.
149. Respondent did not respond to their e-mail inquiries.

## CONCLUSIONS OF LAW

Regulation 37 C.F.R. § 10.23(a) states that a practitioner shall not “[E]ngage in disreputable or gross misconduct.” Regulation 37 C.F.R. § 10.23(b) states that a practitioner shall not “engage in conduct that is prejudicial to the administration of justice.” Regulation 37 C.F.R. § 10.23(c)(8) proscribes “failing to inform a client or former client or failing to timely notify the Office of an inability to notify a client or former client of correspondence received from the Office or the client's or former client's opponent in an inter partes proceeding before the Office when the correspondence (i) could have a significant effect on a matter pending before the Office, (ii) is received by the practitioner on behalf of a client or former client and (iii) is correspondence of which a reasonable practitioner would believe under the circumstances the client or former client should be notified.”

1. Respondent violated 37 C.F.R. § 10.23(a) and (b), via § 10.23(c)(8), by failing to inform his clients of Notices to File Missing Parts, non-final Office actions, and Notices of Abandonment.

Regulation 37 C.F.R. § 10.77(c) states that a practitioner shall not “[n]eglect a legal matter entrusted to the practitioner.”

2. Respondent violated 37 C.F.R. § 10.77(c) by not communicating with clients about, or responding to, Office communications received on their behalf; abandoning clients’ patent applications without their knowledge or consent; and not responding to his clients’ various attempts to communicate with him.

Regulation 37 C.F.R. § 10.89(c) proscribes intentionally or habitually violating the USPTO Code of Professional Responsibility.

3. Respondent violated 37 C.F.R. § 10.89(c) by repeatedly neglecting to respond to Office communications received on behalf of his clients, repeatedly neglecting to respond to the clients themselves, and repeatedly abandoning those clients.

Regulation 37 C.F.R. § 10.23(b)(6) states that a practitioner may not “[E]ngage in any other conduct that adversely reflects on the practitioner’s fitness to practice before the [USPTO].”

4. The OED Director has not alleged any “other conduct” of the sort envisioned by 37 C.F.R. § 10.23(b)(6). The Court therefore has no basis to find a violation of this regulation. See Moatz v. Colitz, 68 U.S.P.Q.2d 1079, 1102-03 (Jan. 2, 2003).

## SANCTIONS

The OED Director requests that the Court sanction Respondent by excluding him from practice before the USPTO in patent, trademark, or other non-patent cases or matters. The Court must consider four factors, if applicable, before issuing such a sanction. 37 C.F.R. § 11.54(b).

1. Did the practitioner violate a duty owed to a client, to the public, to the legal system, or to the profession?

Yes. Respondent accepted payment from his clients and was therefore obligated to perform the agreed-upon legal services on their behalf. Although Respondent prepared and filed patent applications, they were ultimately abandoned due to his neglect. Moreover, Respondent ignored his clients' inquiries and did not return their payments. Additionally, by failing to honor his contractual agreements with his clients, Respondent has tarnished the image of patent practitioners and the legal profession as a whole. This factor supports a maximum sanction.

2. Did the practitioner act intentionally, knowingly, or negligently?

Yes. Respondent has offered no explanation for his actions, and has not participated in the instant proceeding in any way. He has therefore waived the opportunity to contest the USPTO's assertions as to his state of mind. The findings of the California State Bar court confirm that Respondent received mail at the Totterdell address. Additionally, none of the e-mails sent to his address of record were returned as "undeliverable." The Court therefore concludes that Respondent's actions and inactions were deliberate. Respondent repeatedly prepared and filed patent applications, then failed to respond to notices of missing parts or office actions, ultimately resulting in the applications becoming abandoned. The only conclusion that can reasonably be drawn is that Respondent chose to take his clients' money with no intention of providing patent legal services other than merely filing the patent application. This factor supports a maximum sanction.

3. What amount of actual or potential injury was caused by the practitioner's misconduct?

Respondent's clients have suffered monetary losses due to his conduct. Additionally, their patent applications were abandoned, and so their intellectual property rights in their inventions were never secured by Respondent. This constitutes a substantial potential injury. Accordingly, this factor also supports a maximum sanction.

4. Are there any aggravating or mitigating factors?

There are several aggravating factors present in this case. Respondent has been practicing patent law for twenty years, and thus is fully aware of his legal and ethical obligations to his clients and the possible adverse consequences for their intellectual property rights in their inventions. Nevertheless, he allowed his clients' patent applications to become abandoned.

Respondent's pattern of misconduct is an aggravating factor. For each of his clients, Respondent took their money, prepared and filed their patent applications, and then abandoned the applications and his clients.

Respondent also failed to repair his errors. He did not file any missing parts of applications or return money he received from his clients or make any effort to do so.

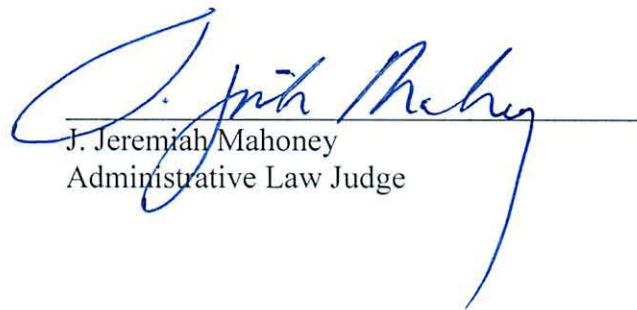
Finally, Respondent's prior disciplinary record is an aggravating factor. The State Bar Court of California has already imposed a suspension on Respondent for his misconduct. Respondent's experience in this field and magnitude of misconduct warrants the sanction of exclusion. Such a person has no place representing clients before the USPTO.

### **ORDER**

On the basis of Respondent's deemed admissions, and after an analysis of all four enumerated factors, this Court concludes that Respondent's misconduct warrants the penalty of exclusion. Accordingly, the *Default Motion* is **GRANTED**.

**IT IS HEREBY ORDERED** that Respondent James D. Ivey, PTO Registration No. 37,016, be **EXCLUDED** from practice before the U.S. Patent and Trademark Office.

**So ORDERED.**

  
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J. Jeremiah Mahoney  
Administrative Law Judge

## CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing INITIAL DECISION ON DEFAULT JUDGEMENT, issued by J. Jeremiah Mahoney, Chief Administrative Law Judge (Acting), in D2013-22, were sent to the following parties on this 7<sup>th</sup> day of March, 2013, in the manner indicated:



Iamanadette Jones-Green, Staff Assistant

### VIA FIRST CLASS MAIL AND E-MAIL:

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