

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

In the Matter of)	
)	
Lawrence Radanovic,)	
)	
Respondent)	Proceeding No. D2014-29
_____)	

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 Lawrence Radanovic (“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.

The Agreement, which resolves all disciplinary action by the USPTO arising from the stipulated facts set forth below, is hereby approved. This Final Order sets forth the parties’ stipulated facts, legal conclusion, and sanctions.

Jurisdiction

1. At all times relevant hereto, Respondent of Washington, D.C., was a registered patent attorney (Registration No. 23,077) and was subject to the USPTO Code of Professional Responsibility, which is set forth at 37 C.F.R. § 10.20 *et seq.*¹
2. The USPTO Director has jurisdiction over this matter pursuant to 35 U.S.C. §§ 2(b)(2)(D) and 32 and 37 C.F.R. §§ 11.19 and 11.26.

Stipulated Facts

3. The USPTO registered Respondent as a patent agent on June 1, 1966 and as a patent attorney on September 28, 1967.
4. Respondent’s registration number is 23,077.
5. Respondent was admitted to the District of Columbia Bar on July 20, 1967 and is a member in good standing.

¹ The USPTO Code of Professional Responsibility, 37 C.F.R. §10.20 *et seq.*, applies to Respondent’s alleged misconduct that occurred prior to May 3, 2013. The USPTO Rules of Professional Conduct, 37 C.F.R. § 11.101 *et seq.*, apply to Respondent’s alleged misconduct occurring after May 2, 2013.

6. In 2009, Respondent filed a patent application and undertook joint representation of Dr. John McCoy and Mr. Rajesh Patel who were named as joint inventors in the patent application.

7. Respondent did not enter into a written engagement agreement with Dr. McCoy and Mr. Patel.

8. As early as October 2011, Respondent became aware that Dr. McCoy was concerned about whether Mr. Patel had contributed to the invention. Respondent gave advice to Dr. McCoy regarding inventorship but he did not discuss inventorship with Mr. Patel.

9. A notice of allowance in the patent application issued in December 2012 and Respondent paid the issue fee on January 17, 2013. Almost immediately an inventorship dispute arose between Dr. McCoy and Mr. Patel.

10. Respondent knew as of January 28, 2013 that Dr. McCoy claimed that Mr. Patel had made no inventive contribution and that Dr. McCoy asserted that he was the sole inventor of the allowed claims. Despite this knowledge, Respondent continued to represent both Dr. McCoy and Mr. Patel.

11. In February 2013, Respondent hired a third-party patent attorney to investigate and render an opinion regarding the inventorship of the allowed claims. In a report dated April 8, 2013, the attorney concluded that the sole inventor was Dr. McCoy.

12. Mr. Patel never provided the third-party patent attorney with evidence of his contribution to the allowed claimed subject matter in the patent application.

13. In early 2013, Respondent discussed with Dr. McCoy how to remove Mr. Patel's name as an inventor on the soon to be issued patent. He did not have any similar conversations with Mr. Patel, and did not keep Mr. Patel informed of the communications with Dr. McCoy regarding inventorship.

14. Respondent attempted to get his clients to agree to a binding arbitration/mediation on the inventorship issue. The intended purpose of the arbitration/mediation was for an independent determination of inventorship. It was intended that the parties would act to formalize the determination by filing a certificate of correction under 37 C.F.R. § 1.324, in the event that Dr. McCoy was found to be the sole inventor. Mr. Patel did not agree to participate.

15. On May 3, 2013, on instructions from Dr. McCoy, Respondent filed a petition expressly abandoning the allowed patent application and filed a continuation patent application naming Dr. McCoy as the sole inventor. He did not advise Mr. Patel of either filing.

16. Mr. Patel terminated Respondent's representation on May 8, 2013.

17. The express abandonment was accepted and the parent patent application officially became abandoned on May 10, 2013.

18. Respondent continued to represent Dr. McCoy in the new patent application, but later withdrew as counsel of record for Dr. McCoy in September 2014.

19. Respondent represents that he does not believe, under 37 C.F.R. § 1.45(c), there were differing interests between Dr. McCoy and Mr. Patel, or that his representation of Dr. McCoy was directly adverse to Mr. Patel, because there was no evidence from Mr. Patel that he made a contribution to the allowed claimed subject matter in the parent patent application or to the claims of the continuation application.

Joint Legal Conclusions

20. Respondent admits that, based on the above stipulated facts, he violated 37 C.F.R. § 10.66(b) (a practitioner shall not continue multiple employment if the exercise of the practitioner's independent professional judgment in behalf of the client will be or is likely to be adversely affected by the practitioner's representation of another client, or if it would be likely to involve the practitioner in representing differing interests) by continuing to represent Mr. Patel when he knew the representation would likely be adversely affected by his representation of Dr. McCoy, and Mr. Patel did not consent after full disclosure of the possible effect of such representation on the exercise of the practitioner's independent professional judgment on Mr. Patel's behalf.

21. Respondent admits that, based on the above stipulated facts, he violated 37 C.F.R. § 11.107(a) (a practitioner shall not represent a client if the representation of one client will be directly adverse to another, or where there is a significant risk that the representation of a client will be materially limited by the practitioners' responsibilities to another) by continuing to represent both Dr. McCoy and Mr. Patel as co-inventors when their interests were directly adverse. He also violated 37 C.F.R. § 11.107(a) by continuing to represent Mr. Patel when his representation of Mr. Patel was materially limited by his responsibilities to Dr. McCoy.

22. Respondent admits that, based on the above stipulated facts, he violated 37 C.F.R. § 11.109(a) (a practitioner who has formerly represented a client in a matter shall not thereafter represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client unless the former client gives informed consent, confirmed in writing) by representing Dr. McCoy after May 8, 2013, when he had previously represented both Dr. McCoy and Mr. Patel as co-inventors of the same invention, Dr. McCoy's claim to be the sole inventor was materially adverse to Mr. Patel's interests, and Mr. Patel did not give informed consent in writing to the representation.

23. In mitigation, the OED Director has taken into consideration that Respondent has been a member of the patent bar for almost 50 years, has no disciplinary history, and had no dishonest or selfish motive.

Agreed Upon Sanction

24. Respondent agrees and it is hereby ORDERED that:
- a. Respondent is hereby publicly reprimanded;
 - b. The OED Director shall comply with 37 C.F.R. § 11.59;
 - c. The OED Director shall 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>;
 - d. The OED Director shall publish the following notice in the *Official Gazette*:


Notice of Reprimand

This notice regards Lawrence Radanovic of Washington, D.C., a registered patent attorney (Registration Number 23,077). The United States Patent and Trademark Office ("USPTO" or "Office") has reprimanded Mr. Radanovic for violating USPTO Disciplinary Rules 10.66(b) and USPTO Rules of Professional Conduct 11.107(a) and 11.109(a). The USPTO Code of Professional Responsibility, 37 C.F.R. §10.20 *et seq.*, applies to Respondent's alleged misconduct that occurred prior to May 3, 2013. The USPTO Rules of Professional Conduct, 37 C.F.R. § 11.101 *et seq.*, apply to Respondent's alleged misconduct occurring after May 2, 2013.

Mr. Radanovic undertook joint representation of two applicants in a patent application. Mr. Radanovic continued to represent both applicants after he became aware of an inventorship dispute. When it appeared that the dispute was irreconcilable, instead of withdrawing Mr. Radanovic filed a petition which expressly abandoned the original patent application and filed a continuation application naming one of the two applicants as the sole inventor. Mr. Radanovic failed to inform the excluded applicant that he had abandoned the original application and continued to represent the first applicant in the matter, despite the conflict of interest with his former client, the second applicant.

This action is the result of a settlement agreement between Mr. Radanovic and the OED Director pursuant to the provisions of 35 U.S.C. § 2(b)(2)(D) and 37 C.F.R. §§ 11.20, 11.26, and 11.59. Disciplinary decisions involving practitioners are posted at the OED's Reading Room, which is publicly accessible at: <http://e-foia.uspto.gov/Foia/OEDReadingRoom.jsp>.

- e. Nothing in this Final Order shall prevent the Office from considering the record of this disciplinary proceeding, including the Final Order:
 - (1) when addressing any further complaint or evidence of the same or similar misconduct concerning Respondent brought to the attention of the Office; and/or
 - (2) in any future disciplinary proceeding against Respondent (i) as an aggravating factor to be taken into consideration in determining any discipline to be imposed and/or (ii) to rebut any statement or representation by or on Respondent's behalf;
- f. The OED Director shall file a motion with the administrative law judge requesting the dismissal of the pending disciplinary proceeding within fourteen (14) days of the date of the Final Order; and
- g. The OED Director and Respondent shall each bear their own costs incurred to date and in carrying out the terms of this Agreement and the Final Order.



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

DEC 16 2014

Date

on behalf of

Michelle K. 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
U.S. Patent and Trademark Office

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