

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

In the Matter of	)	
	)	
Jason A. Neeser,	)	
	)	Proceeding No. D2015-16
Practitioner	)	
	)	

**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 Jason A. Neeser (“Practitioner”), through counsel, have submitted a “Proposed Settlement of Disciplinary Matter Pursuant to 37 C.F.R. § 11.26” (“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, Mr. Neeser, of Grandville, Michigan, has been a patent agent registered to practice before the Office in patent matters and is subject to the USPTO Code of Professional Responsibility set forth at 37 C.F.R. § 10.20 *et seq.* (for events occurring prior to May 3, 2013) and the USPTO Rules of Professional Conduct set forth at 37 C.F.R. §§ 11.101 through 11.901 (for events occurring on or after May 3, 2013).

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.

**Stipulated Facts**

**Forming Partnership with Non-Practitioner**

3. On November 21, 2011, the USPTO registered Practitioner as a patent agent (Registration Number 69,002).

4. Mr. Neeser and a non-practitioner formed an entity known as “Inventor Soup” for the express purpose of providing patent legal services and non-legal services to their clients. Mr. Neeser represents that he provided all of the patent legal services, and the non-practitioner provided only non-legal services. Mr. Neeser and the non-practitioner were the only individuals affiliated with the Inventor Soup business entity.

5. Mr. Neeser represents that he did not share any patent legal services fees with the non-practitioner, and that he and the non-practitioner have stopped doing business together under the Inventor Soup entity.

6. Mr. Neeser did not maintain a client trust account for the attorney fees, expenses, or USPTO fees that he received in advance for patent legal services to be provided by "Inventor Soup."

### **Representation of Client #1**

7. On September 26, 2012, Client #1 filed a U.S. provisional patent application ("Client #1's provisional application") in the USPTO. Mr. Neeser represents that he had no involvement with the preparation or filing of Client #1's provisional application.

8. On or about August 16, 2013, Client #1 contacted Inventor Soup and Mr. Neeser for the purpose of preparing and filing a non-provisional utility patent application corresponding to Client #1's provisional patent application.

9. Mr. Neeser agreed to prepare and file the non-provisional utility patent application prior to midnight on September 26, 2013. In exchange, the client agreed to pay a flat fee of \$1825.

10. On August 27, 2013, Client #1 made the agreed upon advanced payment into a PayPal account associated with Inventor Soup.

11. After repeatedly promising and failing to provide Client # 1 with a draft copy of the non-provisional utility patent application, Mr. Neeser provided Client #1 with a draft utility patent application at 9:24 pm, on September 26, 2013.

12. Mr. Neeser filed the non-provisional utility patent application prior to the midnight deadline, but he failed to include the filing fee, inventor's declaration, and proper drawings.

13. On Saturday, October 26, 2013, Client #1 emailed Mr. Neeser notifying him that Client #1 had filed a complaint against him with the USPTO.

14. On Sunday, October 27, 2013, Client #1 wrote to Mr. Neeser demanding a full refund of all the fees paid to Inventor Soup.

15. Mr. Neeser represents that he refunded a total of \$485 to Client #1.

16. Mr. Neeser never filed a complete non-provisional utility patent application for Client #1, and he did not withdraw his representation in accordance with 37 C.F.R. §11.116. The incomplete non-provisional patent application became abandoned.

17. Client #1's intellectual property rights were prejudiced as a result of Mr. Neeser's failure to provide Client #1 with an adequate opportunity to review the draft non-provisional

utility application prior to its filing and the failure to file a complete non-provisional utility application.

### **Representation of Client #2**

18. On November 10, 2011, Client #2 filed a U.S. provisional patent application (“Client #2’s provisional patent application”).

19. Client #2 retained Mr. Neeser to file both a PCT application and a non-provisional U.S. national phase utility patent application corresponding to Client #2’s provisional patent application.

20. Mr. Neeser requested that Client #2 pay him in advance for at least a portion of the legal services and USPTO fees for the PCT application and the U.S. national phase utility patent application. The PCT application and an incomplete U.S. national phase utility patent application were timely filed on November 13, 2012, or within twelve months of the filing date of Client #2’s provisional patent application.

21. On December 13, 2012, Mr. Neeser received a Notice of Missing Parts to complete the U.S. national phase utility patent application.

22. On August 19, 2013, the incomplete U.S. national phase utility patent application became abandoned as a result of Mr. Neeser’s failure to properly reply to the Notice of Missing Parts, and he never withdrew his representation in accordance with 37 C.F.R. §11.116.

23. Mr. Neeser failed to carry out his contract of employment with Client #2 and did not file a complete U.S. national phase utility patent application, as he was hired and had agreed to do.

24. Client #2’s intellectual property rights were prejudiced as a result of Mr. Neeser’s acts and omissions.

### **Legal Conclusions**

Based on the foregoing stipulated facts, the OED Director and Mr. Neeser agree as follows:

25. Mr. Neeser formed a partnership with a non-practitioner (“Inventor Soup”) and provided patent legal services before the Office as part of the partnership’s business, in violation of 37 C.F.R. § 10.49 (“A practitioner shall not form a partnership with a non-practitioner if any of the activities of the partnership consist of the practice of patent, trademark, or other law before the Office”) (for activities prior to May 3, 2013) and 37 C.F.R. § 11.504(b) (“A practitioner shall not form a partnership with a non-practitioner if any of the activities of the partnership consist of the practice of law”) (for activities on or after May 3, 2013).

26. By receiving attorney fees, expenses, and USPTO fees in advance for patent legal services to be provided by “Inventor Soup” and not placing those funds in a trust account, Mr.

Neeser violated 37 C.F.R. § 11.115(c) (“A practitioner shall deposit into a client trust account legal fees and expenses that have been paid in advance, to be withdrawn by the practitioner only as fees are earned or expenses incurred.”)

27. By not maintaining a trust account satisfying the requirements of 37 C.F.R. § 11.115(a), Mr. Neeser also failed to hold property of clients (*i.e.*, unearned legal fees and expenses not yet paid) in his possession separate from his own property, in violation of 37 C.F.R. § 11.115(a) (setting forth provisions for safekeeping client property).

28. By not maintaining separate accounts for client funds that were not yet earned, Mr. Neeser also failed to keep certain accounting records in violation 37 C.F.R. § 11.115(f)(1) (setting forth required records).

29. With respect to Client #1, Mr. Neeser (a) failed to act with reasonable diligence and promptness in the drafting of a non-provisional patent application for Client #1, in violation of 37 C.F.R. § 11.103; (b) failed to competently handle Client #1’s patent application by, among other things, failing to meet statutory due dates, in violation of 37 C.F.R. § 11.101; and (c) failed to promptly comply with reasonable requests for information from Client #1, in violation of 37 C.F.R. § 11.104(a)(4).

30. With respect to Client #2, Mr. Neeser (a) failed to act with reasonable diligence and promptness in the drafting and filing of a complete U.S. national phase utility non-provisional patent application for Client #2, in violation of 37 C.F.R. § 11.103; (b) failed to carry out a contract for employment for Client #2 by failing to meet deadlines promised to Client #2 to file the complete U.S. national phase utility non-provisional patent application , in violation of 37 C.F.R. § 10.84 (a)(2) (for activities prior to May 3, 2013); and (c) failed to advise Client #2 regarding the deadlines for filing a complete U.S. national phase utility patent application claiming the priority date of the PCT application, in violation of 37 C.F.R. § 11.104(a)(3).

#### **Mitigating Factors**

31. Mr. Neeser is remorseful for his conduct resulting in the specified violations.
32. Mr. Neeser has no prior disciplinary history.
33. Mr. Neeser has cooperated fully with the OED.

#### **Agreed Upon Sanction**

34. Practitioner agrees and it is hereby ORDERED that:
  - a. Practitioner shall be suspended for a period of twelve (12) months commencing on the date of the Final Order approving this Agreement;
  - b. Practitioner shall comply with 37 C.F.R. § 11.58;

- c. The OED Director shall publish a Final Order pursuant to 37 C.F.R. § 11.59(a) in the OED's electronic FOIA Reading Room, which is publically accessible through the Office's website at: <http://e-foia.uspto.gov/Foia/OEDReadingRoom.jsp>;
- d. The OED Director shall publish a notice in the *Official Gazette* that is materially consistent with the following:

### **Notice of Suspension**


This notice concerns Jason Alvin Neeser of Grandville, Michigan. Mr. Neeser is a registered patent agent (Registration Number 69,002). The United States Patent and Trademark Office ("USPTO" or "Office") has suspended Mr. Neeser from practice before the Office in patent, trademark, and non-patent matters for a period of twelve (12) months. Mr. Neeser was suspended for violating 37 C.F.R. §§ 10.49; 10.84(a)(2); 11.101; 11.103; 11.104(a)(3) and (4); 11.115(a), (c) and (f)(1); and 11.504(b).

Mr. Neeser formed a partnership with a non-practitioner, and their partnership activities included the practice of patent law before the USPTO. While practicing through the partnership, Mr. Neeser failed to maintain a trust account to hold client funds, commingled his funds with client funds, and failed to keep required records. Mr. Neeser also neglected several client matters before the Office by failing to meet deadlines promised to clients, failing to advise clients regarding the deadlines, failing to promptly reply to reasonable requests for information from clients, and failing to pay a filing fee for a patent application as promised to a client.

This action is the result of a settlement agreement between the OED Director and Mr. Neeser pursuant to the provisions of 35 U.S.C. §§ 2(b)(2)(D) and 32 and 37 C.F.R. §§ 11.20, 11.26, and 11.59. Disciplinary decisions involving practitioners are posted for public reading at the Office of Enrollment and Discipline Reading Room, which is accessible at: <http://e-foia.uspto.gov/Foia/OEDReadingRoom.jsp>.

- e. Practitioner shall be granted limited recognition to practice before the Office commencing on the date the Final Order is signed and expiring thirty (30) days after the date the Final Order is signed, with such limited recognition being granted for the sole purpose of facilitating Practitioner's compliance with the provisions of 37 C.F.R. § 11.58(b);
- f. After the expiration of the thirty (30) day limited recognition period referred to above, the USPTO shall promptly dissociate Practitioner's name from any Customer Numbers and the public key infrastructure ("PKI") certificates associated with those Customer Numbers;

- g. Practitioner shall not apply for a USPTO Customer Number, shall not obtain a USPTO Customer Number, nor shall he have his name added to a USPTO Customer Number, unless and until he is reinstated to practice before the USPTO;
- h. Nothing in this Agreement or 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 Practitioner brought to the attention of the Office, and/or (2) in any future disciplinary proceeding against Practitioner (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 Practitioner's behalf; and
- i. The OED Director and Practitioner shall each bear their own costs incurred to date and in carrying out the terms of this Agreement.

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

MAR - 9 2015  
\_\_\_\_\_  
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  
United States Patent and Trademark Office

Jason Neeser  
2885 Sanford Avenue SW #18939  
Grandville, MI 49418  
*Practitioner*