

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

<b>In the Matter of:</b>	)	
	)	
<b>Michael G. McCoy,</b>	)	
	)	
<b>Respondent</b>	)	<b>Proceeding No. D2014-37</b>
<hr/>	)	

**FINAL ORDER PURSUANT TO 37 C.F.R. § 11.24**

Pursuant to 37 C.F.R. § 11.24, the Director of the United States Patent and Trademark Office (“USPTO” or “Office”) hereby orders the suspension of Michael G. McCoy (“Respondent”) for violation of 37 C.F.R. § 11.804(h).

**I. BACKGROUND AND PROCEDURAL HISTORY**

At all times relevant to these proceedings, Respondent has been an attorney in good standing licensed by the State Bar of Texas to practice law in that jurisdiction. (Exhibit 2 at page 1). As a licensed attorney in good standing, Respondent is authorized to practice before the Office in trademark and non-patent matters pursuant to 37 C.F.R. 11.14(a). (*Id.*).

On March 10, 2014, the State Bar of Texas issued a judgment in *Commission for Lawyer Discipline v. Michael Gregory McCoy*, Case No. A0031214364 (“Judgment”), suspending Respondent from the practice of law in Texas on ethical grounds for a period of ten (10) years. (Exhibit 1 at page 3). If Respondent complies with the terms and conditions specified in the Judgment, the suspension will consist of two (2) years of active suspension and eight (8) years of probated suspension thereafter. (*Id.*)

On September 29, 2014, the Director of the Office of Enrollment and Discipline of the USPTO (“OED Director”) served a “Complaint for Reciprocal Discipline Under 37

C.F.R. § 11.24” (“OED Complaint”) on Respondent. (Exhibit 2). The OED Director requested that the USPTO Director impose reciprocal discipline upon Respondent for violating 37 C.F.R. § 11.804(h) by being suspended on ethical grounds by a duly constituted authority of a State. (*Id.*). The OED Director also filed a Request for Notice and Order Pursuant to 37 C.F.R. § 11.24 (“Request for Notice and Order”) asking that the USPTO Director serve a Notice and Order on Respondent. (Exhibit 3). The OED Complaint and Request for Notice and Order were mailed to Respondent by certified mail (receipt no. 70140510000044242682).

On October 9, 2014, the Deputy General Counsel for General Law, on behalf of the USPTO Director, issued a Notice and Order (“Order”) mailed by certified mail (receipt no. 70140510000044243221) giving Respondent 40 days to file a response “containing all information that Respondent believes is sufficient to establish a genuine issue of material fact that the imposition of the discipline identical to that imposed” by State Bar of Texas in *Commission for Lawyer Discipline v. Michael Gregory McCoy*, Case No. A0031214364, would be unwarranted based upon any of the grounds permissible under 37 C.F.R. § 11.24(d)(1). (Exhibit 4).

The Order was returned as undelivered to the USPTO on November 3, 2014. The Notice and Order was published in the *Official Gazette* on December 2, 2014, and December 9, 2014. Respondent has not filed a response to the Notice and Order.

## II. ANALYSIS

In light of Respondent’s failure to file a response, it is hereby determined that there is no genuine issue of material fact under 37 C.F.R. § 11.24(d) and suspension of Respondent from the practice of patent, trademark, and non- patent law before the USPTO

for a period of ten (10) years, with two (2) years of active suspension and eight (8) years of probated suspension thereafter if Respondent complies with the requirements set forth by the State Bar of Texas to receive probated suspension in that state, is appropriate.

**ORDER**

ACCORDINGLY, it is hereby **ORDERED** that:

1. Respondent be suspended from the practice of patent, trademark, and non-patent law before the USPTO for a period of ten (10) years commencing on the date of this Final Order;

2. Respondent shall be permitted to file a petition for reinstatement under 37 C.F.R. 11.60 at any time after two (2) years from the date this Final Order is signed, if, for any such petition for reinstatement filed within a period of ten years commencing on the date of this Final Order, Respondent has first complied with the requirements set forth by the State Bar of Texas to receive probated suspension in that state;

3. If the OED Director grants a petition requesting Respondent's immediate reinstatement, the OED Director shall stay any remaining period of suspension and the Respondent will serve a period of probation during that remaining period of suspension;

4. The term "remaining period of suspension" means (a) Respondent's initial 10 year suspension minus the period of time from the date this Final Order is signed until Respondent is reinstated; and (b) in the event that the Respondent has not been reinstated prior to 10 years from the date this Final Order is signed, there is no "remaining period of suspension";

5. Regarding Respondent's probation:

(A) In the event that the OED Director is of the opinion that Respondent, during the probationary period, failed to comply with any provision of this Final

Order, the OED Director shall:

(1) issue to Respondent an Order to Show Cause why the USPTO Director should not order that Respondent be immediately disciplined for his failure to comply with any provision of this Final Order;

(2) send the Order to Show Cause to Respondent at the last address of record Respondent furnished to the OED Director pursuant to 37 C.F.R. § 11.11(a); and

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

and

(B) in the event 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 this Final Order, the OED Director shall:

(1) deliver to the USPTO Director: (i) the Order to Show Cause, (ii) Respondent's response to the Order to Show Cause, if any, and (iii) argument and evidence supporting the OED Director's conclusion that Respondent failed to comply with a provision(s) of this Final Order, and

(2) request that the USPTO Director immediately suspend Respondent for an appropriate period of time for failing to comply with a provision(s) of this Final Order;

6. In the event that the USPTO Director enters an order pursuant to the preceding paragraph disciplining Respondent, and Respondent seeks a review of such order, any such review of the order shall not operate to postpone or otherwise hold in abeyance the discipline;

7. The OED Director publish the following Notice in the *Official Gazette*:

**NOTICE OF SUSPENSION**

This Notice concerns Michael G. McCoy of Hazard, Kentucky, who is authorized to practice before the Office in trademark and non-patent matters. In a reciprocal disciplinary proceeding under 37 C.F.R. § 11.24, the Director of the United States Patent and Trademark Office (“USPTO”) has ordered that Mr. McCoy be suspended from practice before the USPTO in patent, trademark, and other non-patent matters for a period of ten (10) years for violating 37 C.F.R. § 11.804(h) based on having been suspended from the practice of law on ethical grounds by a duly constituted authority of a State. Mr. McCoy is eligible to request reinstatement after serving two (2) years of the ten (10) year suspension subject to certain conditions and, if reinstated, Mr. McCoy will be permitted to practice before the Office unless the stay of any remaining portion of his suspension is subsequently lifted. Mr. McCoy is not authorized to practice before the Office in patent matters.

On March 10, 2014, the State Bar of Texas suspended Mr. McCoy for a period of ten (10) years for conduct that violated Texas Disciplinary Rules of Professional Conduct 1.14(a), 1.14(b), 1.15(d), and 8.04(a)(1). Mr. McCoy agreed to assist a client with a prior art search and file a patent application on the client’s behalf. He was paid \$10,250.00 for prepayment of the expenses. The State Bar of Texas found that Mr. McCoy did not hold the funds paid by his client separate from his own property and did not provide the client with an accounting or a copy of the client’s file.

This action is taken pursuant to the provisions of 35 U.S.C. §§ 2(b)(2)(D) and 32 and 37 C.F.R. § 11.24 and 11.59. Disciplinary decisions are available for public review at the Office of Enrollment and Discipline’s Reading Room available at: <http://e-foia.uspto.gov/Foia/OEDReadingRoom.jsp>.

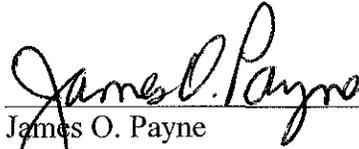
8. The OED Director give notice pursuant to 37 C.F.R. § 11.59 of the public discipline and the reasons for the discipline to disciplinary enforcement agencies in the state(s) where Respondent is admitted to practice, to courts where Respondent is known to be admitted, and to the public;

9. Respondent shall comply with the duties enumerated in 37 C.F.R. § 11.58;

10. Such other and further relief as the nature of this cause shall require.

MAR 17 2015

Date



James O. Payne  
Deputy General Counsel for General Law  
United States Patent and Trademark Office

on behalf of

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

cc:

OED Director