



United States Patent and Trademark Office

Office of the Commissioner for Trademarks

October 06, 2015

Ms. Richel Lee
No. 259, Wensan Road
RM 606, No. 1 Changdi Torch Building
Hangzhou, Zhejiang
CHINA

EXCLUSION ORDER

Dear Ms. Lee:

This letter is to inform you that, effective immediately, the United States Patent and Trademark Office (USPTO) is excluding you from participating as an attorney or signatory on behalf of others in any trademark matters before the USPTO.

Summary of Prior Correspondence

In a show cause order sent to you on August 3, 2015, the USPTO indicated that circumstances suggest you are preparing and filing documents with the USPTO in trademark applications and registrations, or are otherwise acting on behalf of applicants and registrants in connection with trademark applications and registrations before the USPTO. *See* 37 C.F.R. §§ 2.17(a), 11.5(b)(2), 11.14; Trademark Manual of Examining Procedure (TMEP) §§ 602, 608. The show cause order, which was signed by the Commissioner for Trademarks, was separate and distinct from the correspondence you received from the USPTO's Office of Enrollment and Discipline.

The show cause order listed more than 350 applications and registrations associated with you, and noted that, although you were designated as attorney of record and had signed submissions in these applications and registrations, there was no indication that you are a licensed U.S. attorney or are otherwise an authorized signatory under 37 C.F.R. § 2.193(e)(2). Thus, the show cause order requested that you show cause why the USPTO should not (1) cease acceptance of any filings in trademark applications or registrations from you; (2) cease use of your contact information to designate an attorney, correspondent, or domestic representative; and (3) prohibit participation by you as an attorney, correspondent, domestic representative, or signatory in any trademark applications or registrations before the USPTO. The order provided 30 days for you to submit evidence demonstrating the legitimacy of using your signature or correspondence information for purposes relating to trademark applications or registrations.

On August 21, 2015, the USPTO received a response signed by you, indicating that your firm is “acting as [your] client’s legal adviser and IP lawyer” and “managing all the trademarks, patents and other IP matters, including documents for [your] clients.” You have indicated that, therefore, your firm lists its contact information for correspondence in order to “manage the marks for the client more easier [sic].” According to your response, all of your actions are authorized by your clients. Nonetheless, you have also stated your intention to contact your clients and withdraw “Richel Lee” as attorney of record for all of the applications. And you further indicated that, if your clients insist on continuing to use your contact information for USPTO correspondence, you “will ask the client to sign the form and authorize [you] to follow the cases.” Finally, you have requested 90 days to complete these corrective actions.

Facts and Circumstances Support Exclusion as Attorney of Record and Signatory

Generally, a non-attorney may not act as a representative for others in the prosecution of a trademark application, in the maintenance of a trademark registration, or in a proceeding before the USPTO. 37 C.F.R. §11.14; TMEP §§ 602.02, 608.01. Subject to certain exceptions not applicable here, only an attorney who is a member in good standing of the bar of the highest court of a relevant U.S. jurisdiction may practice before the USPTO on behalf of others in trademark matters. *See* 37 C.F.R. §§11.1, 11.14; TMEP §§ 602, 602.02.

Practice before the USPTO includes consulting with or giving advice to a client in contemplation of filing a trademark application or other document with the USPTO; prosecuting a trademark application by submitting an amendment, response, or other document; signing amendments and responses to Office actions; and authorizing issuance of examiner’s amendments. *See* 37 C.F.R. § 11.5(b); TMEP § 608.01.

In addition, responses to Office actions, amendments to applications, requests for express abandonment, requests for reconsideration of final actions, requests to change the correspondence address, and requests to divide must be signed by a qualified practitioner if one has been appointed; otherwise, these submissions must be signed by the individual applicant or registrant, or in the case of juristic entities, someone with legal authority to bind the applicant or registrant. *See* 37 C.F.R. §§ 2.62(b), 2.68(a), 2.74(b), 2.87(f), 2.163(b), 2.171(b)(1), 2.184(b)(2), 2.193(e)(2)–2.193(e)(2)(ii), 11.14(e), 11.18(a); TMEP §§ 611.03(c), (i).

Based on a review of the relevant application and registration records, as well as your response to the show cause order, there is a sufficient and reasonable basis to conclude that you have engaged in unauthorized practice before the USPTO by preparing, signing, and submitting filings, and by designating yourself as attorney of record, in connection with trademark applications and registrations. *See* 37 C.F.R. § 11.5(b); TMEP § 608.01.

Specifically, you have been designated as attorney of record in numerous trademark applications and have signed your name as “duly authorized officer” in numerous submissions associated with those applications, including responses to Office actions and voluntary amendments. *See, e.g.,* U.S. Application Ser. Nos. 86266721, 86204239, 86158705, and 86053749. In addition, your response to the show cause order indicates that your firm is acting as your clients’ “legal adviser and IP lawyer” and “are managing all the trademarks . . . for [your] clients.” However,

you have not indicated that you are a qualified practitioner under 37 C.F.R. §§ 11.1 and 11.14, nor have you provided any evidence to support the legitimacy of signing trademark filings or identifying yourself as attorney of record or as a duly authorized officer.

Under 35 U.S.C. § 3(b)(2)(A), the Commissioner for Trademarks possesses the authority to manage and direct all aspects of the activities of the USPTO that affect the administration of trademark operations, which includes the ability to exclude particular individuals from practicing before the USPTO in trademark matters. Furthermore, in accordance with 35 U.S.C. § 2, the Director of the USPTO has delegated to the Commissioner for Trademarks the power to exercise supervisory authority in trademark-related matters. *See* TMEP § 1709.

Pursuant to this authority, you are hereby excluded from participating as an attorney or signatory on behalf of others in any current or future trademark matters before the USPTO. Accordingly, your name and contact information may not appear in the attorney field of any trademark applications and registrations. Furthermore, the USPTO will not accept your signature on behalf of an applicant or registrant on any submissions that require the signature of a qualified practitioner or the applicant/registrant.

Corrective Actions and Continued Use of Contact Information for Correspondence Purposes

Your request for 90 days to contact your clients and have them withdraw you as attorney of record in the relevant records is granted. Thus, your removal as attorney of record from all relevant records must be completed by November 20, 2015, which is approximately 90 days from the date of your response to the show cause order. After that date, the USPTO will perform any remaining corrective actions to ensure that all relevant records are properly corrected in a timely manner. If necessary, the USPTO will notify the affected applicants and registrants of any corrective actions taken with respect to the application/registration record.

Moving forward, the USPTO will permit the applicants and registrants in the relevant records to continue to use your contact information only for purposes of correspondence with the USPTO. This means that your firm may receive USPTO correspondence on behalf of applicants and registrants and then forward that correspondence to them. You, and any other members of your firm who are not qualified practitioners, should not be designated as attorney of record and are not permitted to engage in any actions that constitute unauthorized practice before the USPTO, as described above. The USPTO will continue to monitor your activities and those of your firm in connection with trademark filings and will take further exclusionary actions if subsequent unauthorized practice is discovered, including prohibiting use of your contact information for correspondence purposes.

Responding to this Order

No response to this letter is required. However, the decision to exclude you as attorney and signatory may be appealed by petition to the Director of the USPTO. *See* 37 C.F.R. § 2.146. If you choose to appeal, the petition must be filed within two months of this letter's mailing date. *See* 37 C.F.R. § 2.146(d). You may file the petition through the Trademark Electronic Application System at www.uspto.gov. The petition should include a verified statement of the

relevant facts, the points to be reviewed, the requested action or relief, and the fee required by 37 C.F.R. § 2.6. *See* 37 C.F.R. § 2.146(c). It should be accompanied by a supporting brief and any evidence to be considered. For detailed information on petition procedure, see TMEP §§ 1705–1705.09.

Sincerely,

A handwritten signature in cursive script that reads "Mary Boney Denison".

Mary Boney Denison
Commissioner for Trademarks