

## NOTE TO THE FILE

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Date: December 13, 2022

By: The Office of the Deputy Commissioner for Trademark Examination Policy

### NOTE:

The attached Show Cause Order was issued on December 13, 2022. A complete version of the Order is presently available at <https://www.uspto.gov/trademarks/trademark-updates-and-announcements/orders-issued-commissioner-trademarks>. The Order was placed into this record because the U.S. Trademark Serial Number was identified in Exhibit A to the Order.



# United States Patent and Trademark Office

*Office of the Commissioner for Trademarks*

December 13, 2022

To:  
Asin Enterprise Management Consulting Ltd. Co.  
Ke Meifang, Principal  
Ming Weixiang, Secretary

Via email: mengersustone@gmail.com  
957500001@qq.com

*In re Asin Enter. Mgmt. Consulting Ltd. Co.*

## SHOW CAUSE ORDER

Dear Ke Meifang, Ming Weixiang, and all other officers of Asin Enterprise Management Consulting, Ltd. Co.:

The United States Patent and Trademark Office (“USPTO” or “Office”) has reason to believe that Asin Enterprise Management Consulting Ltd. Co. (“Asin”), and the employees, agents, affiliates, of Asin (collectively, “Respondents”) are violating the USPTO’s rules concerning practice and representation in trademark matters and the Terms of Use for USPTO websites. Specifically, Respondents are believed to be engaging in the unauthorized practice of law and providing false information in trademark submissions to the USPTO for an improper purpose and without conducting a reasonable inquiry into the evidentiary support for such submissions and/or with the intent to circumvent these rules.

Protecting the integrity of the U.S. trademark register is of the utmost concern to the USPTO because the register must reflect valid information about trademarks actually used in commerce; its accuracy serves the critical purpose of avoiding needless costs and burdens to applicants, who rely upon its contents when choosing a mark. See *Chutter, Inc. v. Great Mgmt. Grp., LLC*, 2021 USPQ2d 1001, at \*25 (TTAB 2021), *appeal filed*, No. 22-1212 (Fed. Cir. Nov. 30, 2021). Providing false information in a trademark submission undermines the integrity of the register, and those who provide false, fictitious, or fraudulent information are subject to sanctions. *In re Yusha Zhang*, 2021 TTAB LEXIS 465, at \*10, \*23-24 (Dir. USPTO Dec. 10, 2021).

This order requires Respondents to show cause as to why the USPTO should not immediately sanction Respondents pursuant to 37 C.F.R. § 11.18(c) and the Terms of Use for USPTO Websites.<sup>1</sup>

## I. Relevant Legal Requirements

All submissions to the USPTO in trademark matters are governed by U.S. trademark laws and the regulations regarding practice in trademark matters before the USPTO, including the rules concerning signatures, certification, and representation of others (collectively, “USPTO Rules”). See *generally*, 15 U.S.C. §§ 1051 *et seq.*; 37 C.F.R. Parts 2, 11.

USPTO Rules require that any foreign-domiciled applicant, registrant, or party to a proceeding be represented by a qualified attorney, licensed to practice law in the United States. 37 C.F.R. § 2.11(a). Providing false, fictitious, or fraudulent information in a submission to the Office to circumvent this requirement is, *per se*, a document submitted for an improper purpose under 37 C.F.R. § 11.18(b). See 37 C.F.R. § 2.11(e).

Furthermore, only attorneys admitted to practice before the bar of the highest court of a U.S. state or jurisdiction may practice before the USPTO in trademark matters on behalf of others. 37 C.F.R. §§ 2.17(a), 11.1, 11.14(a).<sup>2</sup> Practicing before the Office in trademark matters includes all “law-related service[s] that comprehend[] any matter connected with the presentation to the Office . . . relating to a client’s rights, privileges, duties, or responsibilities under the laws or regulations administered by the Office for the . . . registration of a trademark.” 37 C.F.R. § 11.5(b). Individuals who are not U.S.-licensed attorneys may not, on behalf of others: (1) give advice to an applicant or registrant in contemplation of filing a U.S. trademark application or application-related document; (2) prepare or prosecute any U.S. trademark application, response, or post-registration maintenance document; (3) sign amendments to applications, responses to Office actions, petitions to the Director, or request to change correspondence information; or (4) authorize any other amendments to an application or registration. 37 C.F.R. §§ 11.5(b), 11.14(b).

In addition to the requirements for representation, all parties in trademark matters must provide and maintain a valid email address for receiving correspondence from the USPTO, even when represented by a U.S.-licensed attorney. See 37 C.F.R §§ 2.23(b), 2.32(a)(2). The Trademark Electronic Application System (“TEAS”) initial application forms require an owner email address and, if the applicant is not represented by a qualified U.S.-licensed attorney, this email address becomes the primary email address

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<sup>1</sup> A list of U.S. Trademark Serial Numbers including submissions believed to be made by Respondents is attached to this Order as Exhibit A. The list is not necessarily exhaustive, and the USPTO may continue to identify submissions impacting additional trademark application or registration records.

<sup>2</sup> In limited circumstances not relevant to this proceeding, a Canadian attorney or trademark agent reciprocally recognized by the Director of the USPTO’s Office of Enrollment and Discipline may also practice before the Office in trademark matters on behalf of their Canadian clients, but trademark owners are still required to also appoint a U.S.-licensed attorney. See 37 C.F.R. § 11.14(c).

for application correspondence. See *Trademark Manual of Examining Procedure* (“TMEP”) § 609.01 (July 2022 version). Therefore, it is critical that the applicant provide a valid email address even when represented because the USPTO may use the owner’s email address for official correspondence once representation ends. See TMEP § 803.05(b).

Moreover, all documents submitted to the USPTO in a trademark matter must be *personally* signed by the named signatory. 37 C.F.R. § 2.193(a); TMEP § 611.01(b). That is, the signature must be either handwritten in permanent ink by the person named as the signatory or submitted electronically with the named signatory personally entering a combination of letters, numbers, spaces and/or punctuation the signatory has adopted as a signature directly on the electronic submission form. 37 C.F.R. §§ 2.193(a), (c). A person may not delegate the authority to sign trademark-related submissions, and no party may sign the name of another. See *Zhang*, 2021 TTAB LEXIS 465, at \*13; *In re Dermahose Inc.*, 82 USPQ2d 1793, 1796 (TTAB 2007); *In re Cowan*, 18 USPQ2d 1407, 1409 (Comm’r Pats. 1990); see also TMEP § 611.01(b)-(c).

As noted above, information and statements in trademark submissions — particularly, declarations and verifications supporting applications, allegations of use, or registration maintenance documents — must be supported by proper signatures of authorized parties with appropriate knowledge of the facts because the content of these submissions are relied upon by the USPTO during examination of trademark applications, review of allegations of use, and in making determinations of whether there is continued use and/or excusable nonuse in registration maintenance documents. When these filings are impermissibly signed and filed with the USPTO, the integrity of the federal trademark registration process is adversely affected.<sup>3</sup> If a declaration or verification is signed by a person other than the named signatory, it is improperly executed and the averments cannot be relied upon to support registration. See, e.g., *Ex parte Hipkins*, 20 USPQ2d 1694, 1696-97 (BPAI 1991); *In re Cowan*, 18 USPQ2d at 1409.

Further, any party who presents a trademark submission to the USPTO is certifying that all statements made therein relating to the party’s own knowledge are true and all statements made therein on information and belief are believed to be true. See 37 C.F.R. §§ 2.193(f), 11.18(b)(1). The party is also certifying that, “[t]o the best of the party’s knowledge, information and belief, formed after an inquiry reasonable under the

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<sup>3</sup> See *Norton v. Curtiss*, 433 F.2d 779, 794, 167 USPQ 532, 544 (C.C.P.A. 1970) (“With the seemingly ever-increasing number of applications before it, the [USPTO] . . . must rely on applicants for many of the facts upon which its decisions are based. The highest standards of honesty and candor on the part of applicants in presenting such facts to the office are thus necessary elements in a working patent [and trademark] system. We would go so far as to say they are essential.”); accord *Chutter*, 2021 USPQ2d 1001, at \*25 (“The agency, as well as applicants and registrants, and all who rely on the accuracy of the Registers of marks and the submissions made to the USPTO in furtherance of obtaining or maintaining registration, must be able to rely on declarations and the truth of their contents.”); *Dr. Vinyl & Assoc. v. Repair-It Indus., Inc.*, 220 USPQ 639, 647 (TTAB 1983) (“[T]he highest standards of honesty . . . in presenting facts to the Office are as necessary to trademarks as they have so often been held essential in the proper functioning of the patent system.”).

circumstances . . . the paper is not being presented for any improper purpose” and “[t]he allegations and other factual contentions have evidentiary support.” 37 C.F.R. § 11.18(b)(2). Thus, knowingly or negligently submitting a document that includes false, fictitious, or fraudulent attorney information, signatory information, applicant information, specimens of use, or claims of use (or intent to use), violates 37 C.F.R. § 11.18(b)(1), and doing so without evidentiary support or with intent to circumvent USPTO Rules violates 37 C.F.R. § 11.18(b)(2).

Violations of 37 C.F.R. § 11.18(b) may jeopardize the validity of the application or registration, and may result in the imposition of sanctions under § 11.18(c). 37 C.F.R. § 2.193(f); *see also Zhang*, 2021 TTAB LEXIS 465 at \*35, (noting that providing false signatures in addition to other misconduct may result in sanctions up to, and including, termination of pending proceedings before the Office).

Finally, users must register for and use a USPTO.gov account to access trademark forms and submit documents through TEAS. A party who uses USPTO systems, including USPTO.gov and TEAS, is bound by both the Terms of Use for USPTO websites and the USPTO Trademark Verified USPTO.gov Account Agreement (collectively, the “Terms of Use”).

See <https://www.uspto.gov/terms-use-uspto-websites>;  
<https://www.uspto.gov/sites/default/files/documents/TM-verified-account-agreement.pdf>.

Under the Terms of Use, registration for and use of a USPTO.gov account is limited to the individual to whom the account is registered, and the registered individual is responsible for all activities occurring under that account and any sponsored accounts. Use of a USPTO.gov account to submit, access, or alter information in excess of one’s authority not only breaches the Terms of Use, but also violates 37 C.F.R. §§ 2.193(f) and 11.18(b).

## **II. Respondents willfully violated USPTO Rules by engaging in the unauthorized practice of law before the Office and willfully and knowingly providing false information in violation of the USPTO Rules and Terms of Use.**

### **A. Respondents engaged in widespread unauthorized practice of law before the USPTO.**

Evidence available to the USPTO supports a finding that Respondents repeatedly violated USPTO Rules by practicing before the agency in trademark matters despite being unqualified to do so. *See* 37 C.F.R. §§ 11.1, 11.5(b), 11.14. Such evidence also indicates that Respondents willfully concealed their involvement in preparing, submitting, and amending trademark applications and post-registration documents in trademark proceedings for the purpose of circumventing USPTO Rules in order to prosecute trademark applications on behalf of others.

Respondent Asin, a China-based organization, offers trademark registration services to its clients, including those in the United States. By its own admission made under declaration, Asin holds itself out as a “Chinese intellectual property company that files

U.S. trademark applications for Chinese clients.” See Exhibit B showing affidavit of Respondents’ Secretary, Ming Weixiang; see *also* Exhibit C showing email communication between the USPTO and former counsel for Asin, dated May 2, 2020. Aware that the USPTO Rules require their clients to be represented by a U.S.-licensed attorney, Respondents, through their employee Xue Chaoxing (aka Tony Xue),<sup>4</sup> contacted Triangle Accounting Inc. (USA) (“Triangle”)<sup>5</sup>, which had been in a business relationship with Asin since 2016, and ultimately contracted with Triangle to “us[e] the lawyer qualifications” of a U.S.-licensed attorney for use in trademark filings. See Exhibit D showing original and translation copies of communications between Respondents and Triangle representatives, and Exhibit B; see *also* Exhibit E, showing the “Asin-Triangle Contract” and websites related to Triangle.

The Asin-Triangle Contract provided for Respondents’ use of the name and professional credentials of Ms. Xiaoyang (Fiona) Wang, an attorney licensed by the North Carolina State Bar, in their clients’ filings. See Exhibit E. However, Ms. Wang was not actually a party to the contract, and the contract specified that Asin would “handle procedures on its own” and “make[] full use of [the attorney’s] qualifications to carry out . . . business completely independently.” *Id.* According to the terms of the contract, Respondents prepared, submitted and prosecuted U.S. trademark applications independently, with no assistance from the U.S.-licensed attorney. *Id.* In fact, Respondents were only provided with contact information for Triangle, never having any direct communication with Ms. Wang. *Id.*; see *also* Exhibit D (Triangle providing its own contact information with no direct contact information for Ms. Wang).

In addition, the terms of the Asin-Triangle Contract provided for the creation of the email address “mengsustone@gmail.com” for Respondents’ use to receive Office actions and informal communication from examining attorneys. Exhibit E; see *also* Exhibit F showing communication from Lara Morton, former attorney for Asin Enterprise Management Consulting Ltd., dated December 27, 2019. However, Ms. Wang did not have access to and never used this email address. See Exhibit G showing Declaration of Xiaoyang (Fiona) Wang. Consistent with Respondents’ independent trademark prosecution activities, USPTO records show that three USPTO.gov accounts registered in the name of an Asin employee were used to submit nearly 6,000 TEAS forms to the USPTO.

Respondents represented that they ended their relationship with Triangle in September 2019, and hired Ms. Lara N. Morton and Mr. Jonathan G. Morton as their counsel, with

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<sup>4</sup> The USPTO sanctioned Xue Chaoxing in an Administrative Show Cause proceeding before the USPTO, *In re Xue Chaoxing*, (USPTO May 6, 2021) available at <https://www.uspto.gov/trademarks/trademark-updates-and-announcements/orders-issued-commissioner-trademarks>. The USPTO found that Mr. Xue participated in a widespread effort to circumvent USPTO rules through the provision of false, fraudulent, and/or fictitious information, including improperly entering electronic signatures in trademark submissions and the unauthorized practice of law.

<sup>5</sup> Triangle, an accounting firm with offices in the United States and China, offers U.S. trademark registration services to its clients. See Exhibit E.

Mr. Morton also apparently agreeing to represent several individual applicants who were Respondents' clients. See Exhibit F.<sup>6</sup> Notwithstanding Respondents' (and Respondents' clients') engagement of legal counsel at that time, USPTO evidence supports a finding that Respondents continued their independent preparation, submission, and prosecution of U.S. trademark applications. Indeed, in a USPTO Office of Enrollment and Discipline Final Order suspending him from practice before the USPTO, Mr. Morton acknowledged that he did not prepare or file trademark applications, but that it was trademark service companies, including Asin, that prepared and filed trademark applications with the USPTO. *In the Matter of Jonathan G. Morton*, Proceeding No. D2022-07, at \*4 (USPTO April 20, 2022), available at <https://foiadocuments.uspto.gov/oed/Morton-Final-Order-D2022-07.pdf>. Consistent with this admission, USPTO records indicate that three USPTO.gov accounts registered in the name of Respondents' employee were responsible for filing nearly 6,000 submissions in trademark proceedings connected to Respondents from 2019 to 2021 in which Mr. Morton was named as attorney of record. Moreover, although they allegedly terminated the relationship with Triangle and passed responsibility for prosecution to Mr. Morton, the email address previously created for Respondents' relationship with Triangle, "mengsustone@gmail.com," continued to appear in more than 5,000 trademark application and registration records as a correspondence address. The continued use of this email address supports a finding that Respondents, not Mr. Morton, continued to prosecute trademark applications before the USPTO through receipt of official USPTO communications.

**B. In an effort to circumvent USPTO Rules, Respondents willfully provided false information in trademark submissions to the USPTO.**

As explained above, Respondents provided false information with each misuse of Ms. Wang's name as the attorney of record because Ms. Wang never represented these trademark applicants as Respondents claimed, nor did Ms. Wang perform any duties considered to be "practice before the Office." See Exhibit G (Ms. Wang explicitly noted that she "do[es] not practice in trademark law, and [has] never represented any party in a trademark matter before the USPTO"); see *also* 37 C.F.R. §11.5(b). Instead, available evidence supports a finding that Respondents advised and counseled the trademark applicants and submitted trademark documents through the USPTO's TEAS system on their behalf. See Exhibits B-E. In addition, USPTO filing records show an electronic signature allegedly belonging to Ms. Wang was directly entered on forms submitted via USPTO.gov accounts registered to Respondents' employee, supporting a finding that Respondents routinely and improperly provided false signatures in violation of 37 C.F.R. §§ 2.193 and 11.18(b). Misuse of Ms. Wang's name, professional credentials, and electronic signature demonstrates Respondents' intent to circumvent the requirement for U.S.-licensed counsel under 37 C.F.R. § 2.11(a) and an intent to deceive the USPTO as to Respondents' unauthorized practice of law.

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<sup>6</sup> See *also* Exhibit H consisting of emails from Mr. Morton to the Commissioner for Trademarks and Office of the Deputy Commissioner for Trademark Examination Policy, where he asserted that he was handling intellectual property matters for Ms. Morton, and that he represented both Asin and the various applicants whom Asin was apparently also representing.

Regarding the trademark proceedings that did not specifically involve misappropriation of Ms. Wang’s name, professional credentials, or electronic signature, available evidence as shown in Exhibits I-K and discussed below, supports a finding that Respondents improperly entered electronic signatures of the various applicants, on whose behalf Respondents filed, in thousands of TEAS forms submitted to the USPTO.

Further, in application records containing Respondents’ “mengsustone@gmail.com” email address, TEAS forms bearing likely improperly entered attorney signatures were sometimes signed and submitted so close in time as to render it essentially impossible for one person to accomplish. See attached Exhibits I and J consisting of lists of TEAS submissions from November 24, 2020 and April 30, 2021, showing that Mr. Morton’s signature was entered on filings submitted at a high rate, often with multiple forms signed in the same minute. The same exhibits show how TEAS submissions bearing Mr. Morton’s electronic signature were being filed in rapid succession, many filed simultaneously from the same computer network.

A representative sample of filings from April 30, 2021 shows Mr. Morton’s electronic signature being entered on 18 Response to Office Action forms within ten minutes, an unlikely feat for any attorney to accomplish.

<b>Date and Time</b>	<b>TEAS Form</b>	<b>Serial Number</b>	<b>Signatory</b>
Apr 30, 2021 04:40 AM ET	Response to Office Action	90244208	Jonathan G. Morton
Apr 30, 2021 04:40 AM ET	Response to Office Action	90308121	Jonathan G. Morton
Apr 30, 2021 04:41 AM ET	Response to Office Action	90248102	Jonathan G. Morton
Apr 30, 2021 04:41 AM ET	Response to Office Action	90241529	Jonathan G. Morton
Apr 30, 2021 04:41 AM ET	Response to Office Action	90244127	Jonathan G. Morton
Apr 30, 2021 04:44 AM ET	Response to Office Action	90244136	Jonathan G. Morton
Apr 30, 2021 04:44 AM ET	Response to Office Action	90288657	Jonathan G. Morton
Apr 30, 2021 04:44 AM ET	Response to Office Action	90288662	Jonathan G. Morton
Apr 30, 2021 04:45 AM ET	Response to Office Action	90246979	Jonathan G. Morton
Apr 30, 2021 04:46 AM ET	Response to Office Action	90245978	Jonathan G. Morton
Apr 30, 2021 04:46 AM ET	Response to Office Action	90244132	Jonathan G. Morton
Apr 30, 2021 04:48 AM ET	Response to Office Action	90245968	Jonathan G. Morton
Apr 30, 2021 04:48 AM ET	Response to Office Action	90247000	Jonathan G. Morton
Apr 30, 2021 04:48 AM ET	Response to Office Action	90245970	Jonathan G. Morton
Apr 30, 2021 04:49 AM ET	Response to Office Action	90246991	Jonathan G. Morton



<b>Date and Time</b>	<b>TEAS Form</b>	<b>Serial Number</b>	<b>Signatory</b>
Apr 30, 2021 04:49 AM ET	Response to Office Action	90256351	Jonathan G. Morton
Apr 30, 2021 04:50 AM ET	Response to Office Action	90248063	Jonathan G. Morton
Apr 30, 2021 04:50 AM ET	Response to Office Action	90264569	Jonathan G. Morton

Likewise, USPTO.gov accounts registered to Respondents' employees submitted numerous Change Address or Representation (CAR) forms bearing the alleged electronic signatures of various applicants, with the forms being submitted from the same computer network in close succession. See e.g., Exhibit K consisting of a list of TEAS submissions made by one USPTO.gov account on April 29, 2020 that all originate from the same computer network. However, it is a virtual impossibility that so many different individuals all personally entered their electronic signature in the TEAS forms from the same computer network in such close succession. Thus, USPTO filing records strongly support a finding that Respondents were entering the electronic signatures of both an attorney and applicants on TEAS forms submitted to the USPTO.

Indeed, the evidence of Respondents' practice of improperly entering electronic signatures is consistent with findings made in an earlier administrative proceeding involving Respondents' employee, Xue Chaoxing. See *In re Xue Chaoxing*, at \*3. The USPTO found that the same accounts used by Respondents were also used by Mr. Xue or his employees to improperly enter the electronic signatures of others. *Id.* ("... you and your employees are improperly affixing the electronic signatures of applicants, registrants, attorneys, and/or nonexistent parties on submissions to the Office."). Such activity violates 37 C.F.R. §§ 2.193 and 11.18(b).

### **C. Respondents submitted applications with false specimens of use.**

In a trademark or service mark application based on use in commerce under section 1(a) of the Trademark Act, the mark must be in use in commerce on or in connection with all the goods and services listed in the application as of the application filing date. See 15 U.S.C. § 1051(a); 37 C.F.R. §§ 2.2(k)(1), 2.34(a)(1)(i). "Use in commerce means the bona fide use of a mark in the ordinary course of trade, and not made merely to reserve a right in a mark." 15 U.S.C. § 1127. The Trademark Act and USPTO Rules require an applicant to make a verified statement that the mark is in use in commerce and demonstrate use in commerce through the submission of specimens showing the mark as it is actually being used on or in connection with the identified goods or services. 15 U.S.C. § 1051(a)(1); 37 C.F.R. §§ 2.34(a)(1)(iv), 2.56(a)–(b). Averments regarding use in commerce are material to the issuance of a trademark registration and subject to the certifications under 37 C.F.R. § 11.18.

A review of a representative sample of specimens submitted by Respondents reveals a practice of submitting images that do not demonstrate actual "use in commerce." Respondents routinely created images of marks on or in connection with goods or

services identified in applications for the purpose of satisfying the specimen requirement when such images did not depict applicant's actual goods or services or how consumers would actually encounter the applied-for marks.

The nature of these false specimens, as discussed below, strongly supports a finding that the averments as to use of marks were false and that Respondents performed no reasonable inquiry to determine whether the specimens showed the marks as actually used in commerce, as required by Rule 11.18(b)(2). That is, the specimens had such obvious markers of being mocked-up that any reasonable inquiry would have raised questions about their validity, and should have resulted in them not being submitted to the USPTO.

For example, representative examples of such mocked-up or false specimens are attached as Exhibit L. In Serial No. 88915483, the images submitted as specimens include a purported ecommerce website with the following contact information:

2020/5/9 RUISAT Efficient kitchen shredder scissors - \$8.99 : Zen Carl, The Art of E-commerce

#### Contact

 999999999

 Contact Us

 Homer Simpson  
742 Evergreen Terrace,  
Springfield  
Oregon

Any reasonable inquiry undertaken in accordance with § 11.18(b) would have raised questions about this contact information, which reflects the name and home address of a fictional television character<sup>7</sup> and a clearly false telephone number.

Respondents' submissions in other seemingly unrelated applications demonstrate a pattern of providing specimens with invoice purchase prices significantly lower than the standard purchase prices for such goods or listing false purchaser addresses, such that these materials do not demonstrate bona fide use in commerce and are not acceptable to satisfy the specimen requirement. In unrelated applications for a wide variety of unrelated goods, such as basketball hoops, floor mats, animal dolls, exercise bands, and golf flags, ranging in price from \$10-\$35, Respondents submitted invoice specimens from AliExpress.com that show an identical discounted price of \$1.15. See Exhibit N showing representative invoice samples; see *also* Exhibit L, pp.11, 25; Exhibit O, pp. 8-10, 18-20, 28-30. In some cases, the purported purchaser's address pairs cities with incorrect zip codes such that allegedly-ordered goods would have likely never reached the purchaser. For example, an invoice provided as part of a specimen in U.S. Application Serial No.

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<sup>7</sup> Homer Simpson, a resident of "742 Evergreen Terrace" in "Springfield" is the main character of the long-running animated series, "The Simpsons." See Exhibit M consisting of screen captures of <https://www.cbsnews.com/news/the-simpsons-creator-matt-groening-reveals-location-of-springfield/>.

90253632 identifies a purchase price for a baking pan, notably discounted to \$1.15, with the purchaser's address in Alaknuk, Alaska, combined with the zip code for Ivanhoe, California. Exhibit O, p. 8; see *also* Exhibit P, p. 1 (United States Postal Service website showing relevant zip code information). Representative examples of TEAS Plus applications with specimens consisting of falsified invoices containing mismatched or false zip code information are attached as Exhibit O.<sup>8</sup> See *also* Exhibit N, e.g., pp. 65, 77; Exhibit P.

Applications filed by Respondents also included false webpages and invoices with internally inconsistent information submitted as specimens. Specifically, statements provided on these webpages indicate that the goods were not yet for sale, but the accompanying invoices showed purported sale of the goods. In one example, the webpage contained the message "can not deliver to United States," yet the application also included an invoice purportedly evidencing use in commerce and shipment to the United States. Exhibit N, pp. 101-108. Similarly, another webpage, captured May 9, 2020, contains a statement that the product identified for sale would "be in stock on Thursday 01 May, 2025," while the invoice submitted indicated a sale of such goods occurred on May 9, 2020. Exhibit L, pp. 26-36.

Based on the nature of these false specimens, it is highly unlikely that any reasonable inquiry into the allegation of use in commerce and whether these documents demonstrate actual use of the marks in commerce was conducted prior to filing as required by 37 C.F.R. § 11.18(b)(2). In addition, to the extent that any of these submissions may have been filed by the named signatory, admissions from Mr. Morton, the individual identified most often as the signatory for Respondents' application filings, further supports a finding that there was no reasonable inquiry into the evidentiary support for these specimens in violation of 37 C.F.R. § 11.18(b)(2). Indeed, Mr. Morton admitted that he "had not performed a reasonable pre-filing inquiry" in some applications. *In re Morton*, at \*5; see *also* at \*10 ("[Mr. Morton] signed declarations under 18 U.S.C. § 1001 attesting that his clients' specimens showed the marks as used in commerce without conducting an inquiry reasonable under the circumstances.").<sup>9</sup>

These examples of false specimens demonstrate Respondents' consistent practice of submitting documents containing false statements or entries for which no reasonable inquiry was performed as to the evidentiary support, in violation of 37 C.F.R. § 11.18(b). The evidence also points to such egregious behavior on the part of Respondents that it is reasonable to assume they knew or should have known that the documents were submitted to the USPTO for an improper purpose – namely, to obtain approval for trademark applications that did not in fact meet the requirements for registration.

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<sup>8</sup> Only submissions comprised of invoices are included in Exhibit N.

<sup>9</sup> While a U.S.-licensed attorney may rely on instructions from the applicant's foreign attorney or agent, the attorney is ultimately responsible for the certification and reasonable inquiry into the underlying facts contained in the submission under 37 C.F.R. § 11.18, and for submitting the documents through TEAS using the USPTO.gov account registered to the attorney.

#### **D. Respondents submitted papers for improper purposes.**

The available evidence indicates that Respondents, aware that foreign-domiciled applicants were required to be represented by a qualified attorney, misrepresented the identities of those who prepared and signed trademark applications and related submissions, improperly using the names and electronic signatures of Ms. Wang and Mr. Morton. This false information was provided to conceal Respondent's unauthorized practice of law and involvement in trademark proceedings, a circumvention of USPTO Rules, including Rule 2.11(e), and therefore, improper in purpose, in violation of 37 C.F.R. § 11.18(b)(2).

The contracts and affidavits attached hereto indicate that Respondents worked in concert with a third-party to misappropriate the identity of Ms. Wang, a U.S.-licensed attorney, by entering her name and electronic signature on submissions despite the fact that Respondents never met Ms. Wang or otherwise communicated with her. Respondents were aware that Ms. Wang had not performed any of the activities expected of an attorney prosecuting a trademark application because they had performed those activities themselves. Likewise, evidence indicates that Respondents continued their unauthorized practice of law by using Mr. Morton's electronic signature and professional credentials.

Therefore, Respondents knowingly made false material representations to the USPTO through the misrepresentation of the identities of those who prepared and signed trademark applications and related submissions. *See Zhang*, 2021 TTAB LEXIS 465, at \*30-31 (provision of false attorney information and improperly entered attorney signatures listed as examples of false material representations).

Respondents' submission of false specimens, which are also material to issuance of a registration based on use, likewise constitutes the submission of false information for an improper purpose in violation of 37 C.F.R. 11.18(b)(2). As noted earlier, the evidence indicates that Respondents submitted declarations or affidavits containing averments concerning use in commerce, supported by mocked-up images in an attempt to improperly satisfy the use in commerce requirements and deceive the USPTO into issuing a registration applicants would not otherwise have been entitled to. In any event, Respondents engaged in a pattern of practice that calls into question the validity of these submissions, and which may jeopardize the validity of any registrations resulting from applications with which Respondents were involved.

Although conduct need not rise to the level of fraud to warrant sanctions, under the circumstances presented above, Respondents' conduct appears to do so. *See In re Bose Corp.*, 580 F.3d 1240, 1243, 91 USPQ2d 1938, 1939 (Fed. Cir. 2009). And, the evidence clearly supports a finding that Respondents had a pattern and practice of submitting papers with false information for an improper purpose and without conducting any reasonable inquiry, in violation of 37 C.F.R. § 11.18(b)(2).

#### **E. Respondents violated the Terms of Use for USPTO websites.**

Respondents misused USPTO.gov accounts and systems to further their unauthorized practice of law and repeatedly used these accounts to provide the Office false information to conceal their misconduct. USPTO filing records show filing patterns indicating that Respondents improperly shared access to multiple USPTO.gov accounts, including use of a USPTO.gov account registered in the name of a U.S.-licensed attorney not affiliated with Respondents, which was used to improperly submit documents including the electronic signatures of other U.S.-licensed attorneys.

USPTO filing records and evidence discussed herein demonstrates that Respondents used USPTO systems to submit nearly 6,000 TEAS submissions, including initial applications, amendments, and responsive documents, despite the fact that Respondents are not U.S.-licensed attorneys nor otherwise authorized to make submissions on behalf of others in trademark matters. Further, Respondents repeatedly violated the Terms of Use when they accessed USPTO systems with the intent to provide false signatures of others. Respondents repeatedly accessed, modified, and used data on USPTO systems while representing others before the USPTO despite being unauthorized to do so.

In addition, based on the high volume and speed of submissions filed via three USPTO.gov accounts registered to Mr. Xue, Respondents' employee, the reasonable inference is that several of Respondents' employees, beyond Mr. Xue, were accessing these accounts in violation of the Terms of Use for USPTO websites. The conclusion is further supported by Mr. Xue's own admissions, detailed in an Order for Sanctions, where he explained that other people routinely accessed accounts registered to him at the same time. See *In re Xue Chaoxing*, at \*2.

### **III. Show Cause Requirement**

The Director has authority to sanction those filing trademark submissions in violation of the USPTO Rules and has delegated to the Commissioner for Trademarks the authority to impose such sanctions and to otherwise exercise the Director's authority in trademark matters. 35 U.S.C. § 3(a)-(b); 37 C.F.R. § 11.18(c); see also *Zhang*, 2021 TTAB LEXIS 465, at \*10, \*23-24. The authority to issue administrative sanctions orders has been further delegated to the Deputy Commissioner for Trademark Examination Policy.

In determining appropriate sanctions, various considerations may be taken into account, including whether the improper conduct was willful, part of a pattern of activity or an isolated event; whether the conduct infected an entire application or one particular submission; whether the party has engaged in similar conduct in other matters; whether the conduct was intended to injure; the effect of the conduct on the administrative process in time and expense; and what is needed to deter the conduct by the party and by others. 73 Fed. Reg. 47650, 47653 (2008).

Based on the present record and the foregoing considerations, the USPTO has made a preliminary determination that some or all of the following sanctions are warranted and **Respondents are hereby ordered to show cause why the USPTO should not:**

- (1) Permanently preclude Respondents from submitting trademark-related documents to the USPTO on behalf of Respondents or others;
- (2) Remove correspondence information associated with Respondents from the USPTO's database in all trademark applications and/or registrations in which such information appears;
- (3) Strike or otherwise give no weight to all trademark-related documents submitted to the USPTO by Respondents, including all submissions filed via USPTO.gov accounts associated with Respondents and all submissions bearing a signature not personally entered by the named signatory;
- (4) Terminate all ongoing application and registration proceedings containing submissions filed by Respondents;
- (5) Block future financial transactions from credit cards used to pay filing fees associated with improper submissions made by Respondents;
- (6) Direct the USPTO's Office of the Chief Information Officer to permanently terminate or deactivate any USPTO.gov accounts in which contact information related to Respondents appears and to take all reasonable efforts to prevent Respondents from creating or activating further accounts; and/or
- (7) Continue to strike documents, remove information, deactivate accounts, and terminate proceedings containing submissions later found to have been filed by Respondents.

A written response to this show cause order is required. The USPTO will consider any response in determining whether and what sanctions are appropriate. **The response is due by 5:00pm (Eastern Time) on January 10, 2023 and must be sent via email to [TMPolicy@uspto.gov](mailto:TMPolicy@uspto.gov).**

The response must include evidence and explanations that rebut the USPTO's preliminary determination that sanctions are warranted.

Failure to timely respond will result in a presumption that Respondents cannot rebut the showing described above, in which case the USPTO may implement some or all of the proposed sanctions.

In light of the widespread and apparently continuing harm being caused to affected applicants, the USPTO may take immediate mitigation actions, including suspending further action in impacted applications and/or restricting access to USPTO.gov accounts associated with Respondents.<sup>10</sup>

This order is issued without prejudice to the USPTO taking all other appropriate actions to protect its systems and users from Respondents' continued improper activity, including issuing additional orders relating to other applications or registrations, or referring Respondents' conduct to relevant state and federal law enforcement agencies.

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<sup>10</sup> If a preliminary action taken by the USPTO in this matter is later determined to be inappropriate, such action may be undone.

Show Cause Order - In re Asin Enter. Mgmt. Consulting Ltd. Co.

So ordered,

Users,

Cotton, Amy

Digitally signed by Users,  
Cotton, Amy  
Date: 2022.12.13  
09:54:12 -05'00'

Amy P. Cotton

Deputy Commissioner for Trademark Examination Policy  
United States Patent & Trademark Office

Exhibits: A – P