

## NOTE TO THE FILE

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Date: February 16, 2023

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

### NOTE:

The attached Order for Sanctions was issued on February 16, 2023. 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  
BEFORE THE DIRECTOR**

In re: )  
Jerome Eady, Jr. )  
Respondent )  
\_\_\_\_\_ )

**FINAL ORDER FOR SANCTIONS**

In a Show Cause Order dated January 17, 2023, the United States Patent and Trademark Office (“USPTO” or “Office”) required Jerome Eady, Jr. (“Respondent”) to show cause as to why the USPTO should not immediately issue sanctions pursuant to 37 C.F.R. § 11.18(c) based on Respondent’s violation of USPTO rules and the USPTO.gov Terms of Use. *See generally* 15 U.S.C. §§ 1051 *et seq.*; 37 C.F.R. Parts 2, 11.<sup>1</sup>

The Show Cause Order was sent to Respondent’s email address, and copies of the order were uploaded into all affected records. A response to the Show Cause Order was timely received on January 31, 2023, and has been considered in determining the sanctions set forth below.

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 In re Yusha Zhang*, 2021 TTAB LEXIS 465, at \*10, \*23-24 (Dir. USPTO Dec. 10, 2021). The authority to issue administrative sanctions orders has been further delegated to the Deputy Commissioner for Trademark Examination Policy. Accordingly, based on Respondent’s rule violations, discussed below, the following sanctions are warranted and are hereby imposed.<sup>2</sup>

**I. Overview of Respondent’s USPTO Rule Violations and USPTO.gov Terms of Use Violations**

The Show Cause Order described the misconduct that forms the basis for imposing sanctions and is incorporated by reference in this Final Order. The following summary of the facts is provided for background.

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<sup>1</sup> Links to orders issued under the authority of the Commissioner for Trademarks are available at <https://www.uspto.gov/trademarks/trademark-updates-and-announcements/orders-issued-commissioner-trademarks>.

<sup>2</sup> A list of the U.S. Trademark Applications directly affected by this order is attached hereto as Exhibit A.

Respondent applied to register approximately 70 trademarks in the names of around 30 different trademark owners, listed in Exhibit A.<sup>3</sup> As explained in the Show Cause Order, Respondent willfully provided materially false information and signed applications in violation of the underlying averments and did so for an improper purpose with an intent to deceive the USPTO. See *Chutter, Inc. v. Great Mgmt. Grp., LLC*, 2021 USPQ2d 1001 at \*13 (TTAB 2021), *appeal filed*, No. 22-1212 (Fed. Cir. Nov. 30, 2021) (“A declarant is charged with knowing what is in the declaration being signed, and by failing to make an appropriate inquiry into the accuracy of the statements the declarant acts with a reckless disregard for the truth”).

In each application listed in Exhibit A, Respondent electronically signed submissions using his own name and specifically indicated that he held the role of an “Owner” despite having no apparent connection to the purported applicants. In U.S. Application Serial No. 97734266, Respondent also knowingly provided false attorney information. In several other application records, Respondent created correspondence email addresses containing the names of the underlying mark owners and entered them in application records to mislead the USPTO as to the origin of the submissions. Providing false, fictitious, or fraudulent information in a trademark submission to the Office with the intent to circumvent USPTO Rules constitutes the submission of a document for an improper purpose in violation of 37 C.F.R. § 11.18(b)(2) and, any party who does so, is subject to the sanctions and actions provided in 37.C.F.R. §§ 11.18(c). See 37 C.F.R. § 2.11(e).

In his response to the Show Cause Order, Respondent explains he filed these trademark applications to “build a portfolio by correcting trademarks, dress marks, and service marks that were incorrectly filed by various companies, preventing their competitors from filing their mark and losing their intellectual rights” and that he submitted these applications unbeknownst to the purported applicants. Respondent further states that he filed these trademark applications with the objective of eventually obtaining employment with these companies and that he planned on “waiving” the application fees he paid, presumably as part of an exchange. In short, Respondent acknowledges that he filed these applications for an improper purpose, and he intended to trade his applications or potential registrations for an economic benefit despite lacking any bona fide intention to use or register the marks as the marks’ owner.

The response indicates that Respondent filed these applications knowing that the mark owners whose names and marks he misappropriated did not authorize him to file anything on their behalf. Respondent also signed dozens of declarations with materially false representations, such as claiming to be the marks’ owner. Moreover, in several of the applications, Respondent provided the USPTO with email addresses imitating legitimate mark owners’ contact information and/or provided his own business mailing address so he could exclusively receive and control all correspondence associated with these applications. This evidence suggests that Respondent was well aware of the illegitimacy

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<sup>3</sup> Respondent is responsible for filing other trademark applications that have not been included in Exhibit A at this time. However, applications that are not included in Exhibit A may still be found to have statutory or procedural issues. As noted below, Respondent must be represented by a U.S.-licensed attorney in good standing for all applications, including those not identified in Exhibit A.

of his submissions, and he deliberately attempted to mislead the Office. Accordingly, even in the most favorable light, Respondent's conduct and statements in the response would still support imposition of sanctions since Respondent willfully and repeatedly violated USPTO rules and the Terms of Use.

Based on the circumstances referenced in the Show Cause Order, Respondent's actions before the USPTO are particularly egregious in view of the deliberate pattern of submitting trademark documents containing false representations of fact with the intent to circumvent USPTO Rules. *See, e.g., In re Bose Corp.*, 580 F.3d 1240, 1243, 91 USPQ2d 1938, 1939 (Fed. Cir. 2009); *Chutter*, 2021 USPQ2d 1001 at \*13. Respondent's acts may not be corrected or cured. *See, e.g., Univ. of Ky. v. 40-0, LLC*, 2021 USPQ2d 253 (TTAB 2021); *G&W Labs. Inc. v. GW Pharma Ltd.*, 89 USPQ2d 1571, 1573 (TTAB 2009); *cf. Therasense, Inc. v. Becton, Dickinson and Co.*, 649 F. 3d 1276, 1288-89 (Fed. Cir. 2011).

## **II. Sanctions Ordered**

In determining appropriate sanctions, the USPTO considers many factors, including any response received to the issued Show Cause Order, whether the conduct was willful or negligent, whether it was part of a pattern of activity or an isolated event, whether it infects the entire record or is limited to a single submission, whether the conduct was intended to injure a party, what effect the conduct has on the agency, and what is needed to deter similar conduct by others. *See* 73 Fed. Reg. 47650, 47653 (Aug. 14, 2008); 87 Fed. Reg. 431 (Jan. 5, 2022).

In this case, Respondent filed dozens of unauthorized trademark applications and did so knowingly, and willfully misused USPTO systems to proffer submissions for an improper purpose on multiple occasions. Respondent also repeatedly provided false or misleading correspondence information to deceive the USPTO, and even falsified attorney information to evade detection. The nature of the rule violations in conjunction with available filing evidence demonstrates Respondent's conduct was intentionally exploitative of the legitimate mark owners listed as purported applicants as well as USPTO systems.

The USPTO and the public rely on the truth and accuracy of the contents of documents and declarations submitted in support of registration. *See Norton v. Curtiss*, 433 F.2d 779, 794, 167 USPQ 532, 544 (CCPA 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."); *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.").

In light of Respondent's conduct, the USPTO is unable to rely on any submission made by Respondent in any trademark application record. Additionally, applications and other submissions identified in Exhibit A filed by Respondent are fatally defective because they contain materially and intentionally false information. 37 C.F.R. §§ 2.193(f), 11.18(c); *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); see also *Ex parte Hipkins*, 20 USPQ2d 1694, 1969-97 (BPAI 1991); *In re Cowan*, 18 USPQ2d 1407, 1409 (Comm'r Pats. 1990). Under the facts presented, because the circumstances suggest a pattern of activity intended to circumvent USPTO rules and defraud the USPTO, the applications and other submissions associated with applications listed in Exhibit A are effectively void, and the defects cannot be cured. It does not benefit the applicants, registrants, or the USPTO to devote time and resources to further examine applications or post-registration filings known to have such fatal defects. Cf. *The Last Best Beef, LLC v. Dudas*, 506 F.3d 333, 341 (4th Cir. 2007) ("It hardly makes sense for the USPTO to conduct administrative proceedings on [the] applications if registration, at the culmination of those proceedings, would run afoul of the statute.").

Accordingly, the misconduct and USPTO rule violations described in the Show Cause Order are found to be accurate. Effective immediately, the USPTO is imposing the following sanctions under 37 C.F.R. §11.18(c):

- (1) All applications in Exhibit A include submissions where Respondent has provided false applicant information or improperly signed the submissions. The proceedings for the applications listed in Exhibit A are hereby terminated to the extent that the applications have not already been denied a filing date due to fee deficiencies. The Trademark Status and Document Retrieval System (TSDR) shall be updated to include this order.
- (2) Respondent is required to be represented by a qualified U.S.-licensed attorney in all proceedings before the USPTO, including but not limited to, all of Respondent's previous, current, and future applications or registrations.
- (3) The USPTO's Office of the Chief Information Officer will be directed to permanently deactivate any USPTO accounts in which contact information related to Respondent appears, and to take all reasonable efforts to prevent Respondent from creating or activating further accounts. As such, USPTO.gov accounts associated with the following email addresses are hereby permanently deactivated:

[REDACTED]

- (4) The USPTO will continue to strike documents, remove information, deactivate accounts, and terminate proceedings containing submissions later found to have been filed directly by Respondent, as appropriate.

The sanctions ordered herein are immediate in effect and are without prejudice to the USPTO taking any subsequent appropriate actions to protect its systems and users from Respondent's continued improper activity, including issuing additional orders or referring Respondent's conduct to relevant state and federal law enforcement agencies.

So ordered,

Users,  
Cotton, Amy

Digitally signed by Users,  
Cotton, Amy  
Date: 2023.02.16  
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Amy P. Cotton  
Deputy Commissioner for  
Trademark Examination Policy

February 16, 2023

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Date

on delegated authority by

Kathi Vidal  
Under Secretary of Commerce for Intellectual Property and  
Director of the United States Patent & Trademark Office