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THE SUPREME COURT OF OHIO

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April 9, 2008

08-0682

PERSONAL AND CONFIDENTIAL

Kristina D. Frost, Esq.
Clerk of Court
The Supreme Court of Ohio
65 South Front Street, 8th Floor
Columbus, Ohio 43215

Re: Randall J. Knuth
Attorney Registration No. 0046820
Our File No. A8-0820R
Reciprocal Discipline

Dear Ms. Frost:

Enclosed please find an order of the United States Patent and Trademark Office (the "USPTO") suspending Randall J. Knuth, an Ohio attorney, from the practice of law before the USPTO for a period of three years.

We are providing you with a copy of this decision pursuant to Gov. Bar R. V (11)(F)(1) for the purpose of instituting reciprocal discipline.

If you have any questions, do not hesitate to contact me.

Sincerely,

Stacy Solochek Beckman
Assistant Disciplinary Counsel

63306

SSB:cm
Enclosure

RECEIVED
APR 10 2008
CLERK OF COURT
SUPREME COURT OF OHIO

U. S DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

08-0682

4-2-08

(Date)

THIS IS TO CERTIFY that the annexed is a true copy of the United States Patent and Trademark Office Final Order in the Matter of Randall J. Knuth.

FILED
APR 10 2008
CLERK OF COURT
SUPREME COURT OF OHIO

By authority of the

DIRECTOR OF THE U.S. PATENT AND TRADEMARK OFFICE

Certifying Officer.

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE OF ENROLLMENT AND DISCIPLINE

APR 2 2008

Disciplinary Counsel
Supreme Court of Ohio
Attn: Ms. Linda Fish
250 Civic Center Drive
Suite 325
Columbus, OH 43215-7411

Re: Randall J. Knuth

Dear Ms. Fish:

Further to your request, enclosed please find a certified copy of the Final Order in the above-referenced matter.

If you require any additional information or records, please feel free to contact me.

Sincerely,

James M. Silbermann
Office of Enrollment and Discipline

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE ADMINISTRATIVE LAW JUDGE

In the Matter of	)	
RANDALL J. KNUTH,	)	**Proceeding No. 06-09**
Respondent	)	

FINAL ORDER

Harry I. Moatz, Director of Enrollment and Discipline (OED Director) and Randall J. Knuth (Respondent) have submitted a settlement agreement in the above-identified matter that meets the requirements of 37 C.F.R. § 10.133(g).

In order to resolve the case without the necessity of a hearing, the OED Director and Respondent have agreed to certain stipulated facts, legal conclusions and sanctions, all of which are set forth below. It was further agreed between the OED Director and Respondent that this agreement resolves any and all disciplinary action by the USPTO arising from the allegations set forth in the Complaint.

Pursuant to that agreement, this Final Order sets forth the following stipulated facts, agreed-upon legal conclusions and sanctions.

STIPULATED FACTS

1. At all times relevant hereto, Randall J. Knuth (Respondent), formerly of Murfreesboro, Tennessee, and Fort Wayne, Indiana, and currently of Centerville, Ohio, was registered as an attorney to prosecute patent applications before the United States Patent and Trademark Office (USPTO). Respondent's USPTO registration number is 34,644.

2. At all times relevant hereto, Respondent was also admitted to practice before the Ohio Supreme Court, as well as the Indiana Supreme Court.

3. On November 29, 2004, OED received information from the USPTO Office of Finance that Respondent issued sixteen checks and four electronic funds transfer (EFT) authorizations that were returned for insufficient funds in payment of required fees in several patent applications and patents, as well as in a trademark application. Each of the patent applications, patents and trademark application is addressed individually in the counts below.

4. On or about January 19, 2005, OED sent Respondent a Request for Statement of Respondent's Position (First Request) about the checks and EFTs that were returned for insufficient funds.

5. On March 1, 2005, OED received Respondent's Response to its First Request (Response).

6. In his Response, Respondent stated that during the relevant times he had employed a bookkeeper, Torey Cooper (Cooper), who was responsible for typical bookkeeping functions, including account reconciliation and issuing checks. According to Respondent, Cooper paid bills and issued checks, monitored the funds in the relevant bank accounts, and all bookkeeping mail was routed directly to Cooper.

7. Respondent asserted that Cooper was "responsible for ensuring timely payment of PTO fees and follow-up on any bookkeeping problems."

8. Respondent also asserted that he was unaware that checks were being returned for insufficient funds prior to the First Request.

9. Respondent averred that he had sent written requests to Cooper on or about December 9, 2005 and December 17, 2005, inquiring about the unpaid checks and EFTs, but failed to get a response from Cooper.

10. According to Respondent, when Cooper failed to respond to his written requests (via email) for information, he negligently "assumed that all of the unpaid bank checks had been cleared up, reissued, paid, settled, or closed."

11. According to Respondent, Cooper left his firm on or about January 25, 2005. Thereafter, Respondent assigned his office manager, Jennifer Walker (Walker), to handle the payment of all USPTO fees.

12. As of the filing of the Complaint, Respondent had failed to provide the USPTO with any explanation about why checks and EFTs continued to be returned for insufficient funds after Cooper's departure.

13. On October 6, 2005, OED sent Respondent a follow-up Request for Statement of Respondent's Position (Second Request) about the checks and EFTs that were returned for insufficient funds. In the Second Request, OED asked Respondent, *inter alia*, to provide his firm's financial records regarding the clients affected by Respondent's failure to properly pay USPTO fees. The Second Request gave a thirty (30) day due date for response, *i.e.*, a response was due by November 7, 2005 (November 6th being a Sunday).

14. On November 4, 2005, Respondent requested and was granted an additional month to reply to the Second Response.

15. On December 6, 2005, Respondent requested an additional week to reply to the Second Response.

16. As of the filing of the Complaint, the status on the checks and EFTs submitted by Respondent that were denied for insufficient funds are indicated in the following tables. Subsequent to the filing of the Complaint, Respondent paid to the USPTO the NSF Surcharges on all listed matters.

Status of Checks/EFTs Issued by Respondent but Declined for Insufficient Funds in Patent Applications

Patent Application No.	NSF Check #	USPTO Fee Code(s)	Date	Amount	Current Fee Status	NSF Surcharge(s) Paid?
09/309,215	5546	279, 217	09/28/01	$800.00	Paid	Not Paid
10/222,710	8153	1252	10/12/04	$430.00	Not paid	Not Paid
10/222,710	8506	1252	04/18/05	$450.00	Not paid	Not Paid
10/789,795	8199	2051, 2251	11/10/04	$120.00	Paid 2051, but not paid 2251	Not Paid
10/818,432	8202	2051, 2253	11/12/04	$555.00	Paid	Paid
PCT/US/0503597	8338	1601, 1602, 1702, 8007	02/04/05	$2459.00	Paid 1702, 8007	Not Paid
09/959,065	1004	2252	02/09/05	$225.00	Not paid	Not Paid
10/100,951	1005	2501	02/09/05	$25.00	Paid	Paid
11/055,149	8352	2011, 2111, 2311, 8021	02/10/05	$540.00	Paid all except 8021	Not Paid
10/305,723	Deposit Account	2253	02/23/07	$510.00	Paid	Paid

Status of Checks/EFTs Issued by Respondent but Declined for Insufficient Funds in Patents

U.S. Patent No.	NSF Check #	USPTO Fee Code(s)	Date	Amount	Current Fee Status	NSF Surcharge Paid?
6,254,703	Starter Check	2551	09/18/04	$455.00	Paid	Not Paid
6,254,703	8158	2551, 9101	10/14/04	$520.00	Paid	Not Paid
6,291,794	1003	2551	02/08/05	$450.00	Not Paid	Not Paid
6,292,584	1003	2551	02/08/05	$450.00	Not Paid	Not Paid
6,254,703	EFT	2551, 2554	03/04/05	$515.00	Paid	Not Paid
5,241,987	EFT	1553, 1556	03/22/05	$3,930.00	Paid	Not Paid
6,370,738	8522	1551	04/19/05	$900.00	Paid	Paid
5,254,229	8524	1553	04/19/05	$3,800.00	Paid by new counsel	Paid
5,682,109	8539	2552	04/27/05	$1,150.00	Paid by new counsel	Paid
6,384,368	8550	2551	05/09/05	$2,500.00	Paid ($450.00)	Paid
6,373,876	8550	2551	05/09/05	$2,500.00	Paid ($450.00)	Paid
6,359,257	8550	2551	05/09/05	$2,500.00	Paid ($450.00)	Paid
5,741,559	8550	2551	05/09/05	$2,500.00	Paid ($1150.00)	Paid

5,688,330	EFT	2252	05/18/05	$1,150.00	Paid	Paid
5,160,429	7886	1553	04/26/06	$3,220.00	Paid	Paid
5,957,461	9183	1552	02/21/07	$2,300.00	Not Paid	Not Paid

Status of Checks/EFTs Issued by Respondent but Declined for Insufficient Funds in Trademark Application

Registration No.	NSF Check #	USPTO Fee Code(s)	Date	Amount	Current Fee Status	NSF Surcharge Paid?
2,246,590	EFT	7205, 7208	5/18/05	$300.00	Not Paid	Not Paid

17. Respondent was the attorney of record in Patent Application U.S. Serial No. 09/309,215 (the '215 application) at all relevant times.

18. On March 28, 2001, the USPTO sent an Office action in the '215 application to Respondent. The Office action expressly stated that a response was required within a three month shortened statutory period. Thus, a timely response was due by June 28, 2001. There is no fee for filing a timely response.

19. A three month shortened statutory period for reply can be extended by one month increments up to six months total with the purchase of extensions of time and the payment of a surcharge for each month of extension. *See* 37 C.F.R. §§ 1.136(a) and 1.17(a). Thus, a response could also have been filed, along with the appropriate extension fees, up to September 28, 2001, after which time, the '215 application would become abandoned for failure to respond. *See* 37 C.F.R. §§ 1.136(a) and 1.17(a).

20. On September 28, 2001, Respondent filed a reply requesting continued examination (RCE), a petition for a three month extension of time, and a check for $800.00 drawn on his "Accounts Payable" account, No. " . . . 61978" at Three Rivers Federal Credit Union (Three Rivers Account), check #5546, to pay the continued examination fee ($355.00) and the three month extension of time fee ($445.00). Respondent also authorized the USPTO to charge any additional fees that may have been required to his deposit account with the USPTO.

21. On October 2, 2001, the USPTO processed check #5546, but it was returned for insufficient funds.

22. On November 1, 2001, the USPTO charged Respondent's deposit account for both the RCE fee and the extension of time fee.

23. However, Respondent's September 28th authorization did not empower the USPTO to charge the $50 processing fee for returned check #5546 to Respondent's deposit account.

24. As of the filing of the Complaint, Respondent had not paid the $50.00 processing fee required by 37 C.F.R. § 1.21(m) for dishonored check #5546. Respondent subsequently restituted the USPTO the fee.

25. Respondent was the attorney of record in Patent Application U.S. Serial No. 10/222,710 (the '710 application) at all relevant times.

26. On May 14, 2004, the USPTO sent an Office action in the '710 application to Respondent. The Office action expressly stated that a response was required within a three month shortened statutory period. Thus, a timely response was due by August 16, 2004 (August 14, 2004 being a Saturday). A response could also have been filed in the '710 application, along with the appropriate extension fees, up to November 15, 2004 (November 14, 2004 being a Sunday).

27. If a response was not timely filed with the appropriate fees for any extensions of time requested, the '710 application would become abandoned for failure to respond. *See* 37 C.F.R. § 2.65(a).

28. On October 18, 2004, Respondent filed with the USPTO a response to the May 14th Office action, a petition for a two month extension of time, and a check for $430.00 drawn on his "Accounts Payable" account, account No. 7652201323 at Fifth Third Bank Central Indiana (Fifth Third Account), check #8153, to pay the fee for a two month extension of time. Respondent also authorized the USPTO to charge any additional fees that may have been required to his deposit account with the USPTO, Account No. 501157.

29. On or about October 20, 2004, the USPTO processed check #8153, but it was returned for insufficient funds.

30. Although Respondent had authorized the USPTO to charge any additional fees which may have been required to his deposit account with the USPTO, there were insufficient funds in that account in October 2004 to pay the extension of time fee. More specifically, the account's highest balance was only $77.00 on October 4, 2004, which was prior to when the check #8153 was received or processed. The amount in the deposit account only decreased thereafter.

31. On or about October 18, 2004, Respondent also billed the client, Tokheim Holding B.V. (Tokheim), by invoice #3724, a fee of $2,410.00, which included $430.00 for "Government Filing Fees for: Extension of Time for Two Months."

32. On or about November 30, 2004, Tokheim paid Respondent the $2,410.00 fee.

33. On November 16, 2004, unaware of the dishonored status of check #8153, the USPTO issued a final Office action in the '710 application, and set a three month shortened statutory period for reply. Thus, a timely reply was due by February 16, 2005, but could be filed as late as May 16, 2005 with extensions of time and the appropriate fees.

34. On January 19, 2005, OED sent Respondent the First Request, informing him that OED was investigating the return for insufficient funds of several checks and EFTs filed by Respondent with the USPTO.

35. On April 18, 2005, Respondent filed a response to the final rejection, a petition for a two month extension of time, and a check for $450.00 drawn on his Fifth Third Account, check #8506, to pay the two month extension of time. As before, Respondent also authorized the USPTO to charge any additional fees that may have been required to his deposit account with the USPTO.

36. On or about April 19, 2005, the USPTO processed check #8506, but the check was returned for insufficient funds.

37. Although Respondent had authorized the Commissioner to charge any additional fees which may be required to his deposit account on April 1, 2005, there were insufficient funds in the account in April or May 2005 to pay the two month extension of time fee when payment was later processed. More specifically, the balance in the account on April 14, 2005 was $0.00, which was prior to the date check #8506 was received or processed.

38. On or about April 21, 2005, Respondent billed Tokheim $1,938.00 for services rendered regarding the final rejection, invoice #4119, including $450.00 for "Government Filing Fees for: Extension of Time for Two Months."

39. On or about November 26, 2005, Tokheim paid Respondent the $1,938.00 fee.

40. Respondent did not inform Tokheim that the extension of time fees had not been paid.

41. Respondent negligently retained and commingled the funds he received from Tokheim for payment of the extensions of time.

42. As of the filing of the Complaint, Respondent had not used the funds received from Tokheim to pay the outstanding extension of time fees in the '710 application.

43. As of the filing of the Complaint, Respondent had not paid the $100.00 ($50.00 x 2) fee required by 37 C.F.R. § 1.21(m) for dishonored checks #8153 and #8506. Respondent subsequently restituted the USPTO the fee.

44. As such, Respondent negligently misled the USPTO into granting at least two extensions of time.

45. On May 30, 2006, the '710 application issued as U.S. Patent No. 7,051,756.

46. As such, Respondent misled the USPTO into issuing a patent for which all fees due and owing have not been paid.

47. Respondent was the attorney of record in Patent Application U.S. Serial No. 10/789,795 (the '795 application) at all relevant times.

48. On February 25, 2004, Respondent filed the '795 application with an unsigned declaration.

49. On August 10, 2004, the USPTO sent a Notice of Missing Parts of Nonprovisional Application to Respondent advising him that, *inter alia*, a late filing fee or oath or declaration surcharge of $65.00 must be paid to avoid abandonment of the patent application.

50. On November 15, 2004, Respondent filed a reply in the '795 application, which included an executed declaration, a petition for a one month extension of time, and a check for $120.00 drawn on his Fifth Third Account, check #8199, to pay the $65 fee for filing a late declaration and the $55.00 fee for a one month extension of time.

51. Respondent intended to, but did not, advance his own funds with respect to check #8199.

52. On November 17, 2004, the USPTO processed check #8199, but it was returned for insufficient funds.

53. On November 23, 2004, Respondent charged the client's foreign associate, Fukumori Patent Office (Fukumori), by invoice #3773, $150.00 for services, including $65.00 for "Government Filing Fees for: Late Declaration Fee."

54. On or about March 2, 2005, Fukumori paid Respondent the $150.00 fee, including the $65.00 for the late declaration filing fee.

55. On or about January 11, 2005, Respondent charged Fukumori $1,914.50, by invoice #3949, for services including "Government Filing Fees for: Three Month Extension of Time Minus One Month Extension Previously Paid."

56. On or about May 16, 2005, Fukumori paid Respondent the $1,914.50 fee, including the $55.00 fee for a one month extension of time.

57. On December 3, 2004, unaware of the dishonored status of check #8199, the USPTO sent a Notice of Incomplete Reply (Nonprovisional) to Respondent advising him that an English translation of the '795 application was needed and had not yet been filed.

58. On January 13, 2005, Respondent filed a reply in the '795 application that included an English translation; a petition for a three month extension of time; and a check for $580.00, check #8312, to cover, *inter alia*, the $450.00 fee for a three month extension of time, which would have included the previously dishonored payment of $55.00 for a one month extension of time. Check #8312 appears to have been honored.

59. On January 19, 2005, OED sent Respondent the First Request, informing him that OED was investigating the return for insufficient funds of several checks and EFTs filed by Respondent with the USPTO.

60. On March 2, 2005, now realizing the dishonored status of check #8199, the USPTO sent a Notice of Incomplete Reply to Respondent, informing him that the $65.00 fee for the late filing of a declaration had not been received and that additional claim fees totaling $880.00 were also due.

61. On May 10, 2005, Respondent authorized the USPTO by facsimile to deduct the full amount of fees due, *i.e.*, $945.00, from his deposit account.

62. As of the filing of the Complaint, Respondent had not paid the $50.00 processing fee required by 37 C.F.R. § 1.21(m) for dishonored check #8199. Respondent subsequently restituted the USPTO the fee.

63. On January 3, 2006, the USPTO sent Respondent an Office action in the '795 application, which set a one month shortened statutory period for response that could be extended up to six months total from the mailing date of the Office action. If no response was filed by July 3, 2006, the '795 application would become abandoned.

64. On September 11, 2006, the USPTO sent Respondent an Office communication informing him that the '795 application had become abandoned for failure to respond to the Office action of January 3, 2006.

65. Respondent never informed Fukumori about the January 3rd Office action or the abandonment of the '795 application, and Fukumori only discovered the abandonment after it had obtained new counsel.

66. Respondent was the attorney of record in Patent Application U.S. Serial No. 10/818,432 (the '432 application) at all relevant times.

67. On April 5, 2004, Respondent filed the '432 application together with an authorization to permit the USPTO to charge any additional fees that may have been required to his deposit account with the USPTO.

68. The '432 application was filed with an unsigned declaration.

69. On June 18, 2004, the USPTO sent a Notice to File Missing Parts of Nonprovisional Application to Respondent advising him that, *inter alia*, a late filing fee or oath or declaration surcharge of $65.00 must be paid to avoid abandonment.

70. On November 15, 2004, Respondent filed with the USPTO a reply that included an executed declaration; a petition for a three month extension of time; and a check for $555.00 drawn on his Fifth Third Account, check #8202, to pay the $65.00 late declaration fee and the $490.00 three month extension of time fee.

71. On November 17, 2004, the USPTO processed check #8202, but it was returned for insufficient funds.

72. On or about December 10, 2004, Respondent billed the client, Dahlgren LLC (Dahlgren), $185.00, by invoice #3819, for services and "Government Filing Fees for: Late Declaration Fee."

73. On or about January 23, 2005, Dahlgren paid Respondent the $185.00 fee.

74. Respondent intended to, but did not, advance his own funds for check #8202.

75. Although Respondent had authorized the USPTO to charge any additional fees to his deposit account, the account did not contain sufficient funds to pay the late declaration filing fee and the three month extension of time fee between November 15, 2004 (*i.e.*, when the reply was received) and November 18, 2004 (*i.e.*, the last day of the three month extended period). More specifically, the account had a negative balance of -$4.00 from the previous month until $400.00 was deposited in the account on November 24, 2004. The replenished funds were insufficient to pay the $555.00 then due.

76. On February 14, 2005, the USPTO sent Respondent an Office communication advising him that check #8202 had been returned for insufficient funds, and that he was required to submit a $395.00 filing fee, a $65.00 late declaration or oath surcharge fee, and a $50.00 processing fee for the returned check, otherwise the '432 application would become abandoned.

77. On March 18, 2005, Respondent timely filed a response to the February 14, 2005 communication including, *inter alia*, a replacement check in the amount of $605.00 that was applied to the $490.00 three month extension of time fee, the $65.00 late declaration filing fee, and the $50.00 processing fee for dishonored check #8202.

78. On February 16, 2006, the USPTO sent Respondent an Office action in the '432 application, which set a one month shortened statutory period for response that could be extended up to six months total from the mailing date of the Office action. If no response was filed by August 16, 2006, the '795 application would become abandoned.

79. On September 27, 2006, the USPTO sent Respondent an Office communication informing him that the '432 application had become abandoned for failure to respond to the Office action of February 16, 2006.

80. On December 4, 2006, Respondent filed with the USPTO a petition under 37 C.F.R. § 1.137(b) to revive the abandoned '432 application under the unintentional delay standard, along with a check for $750 to cover the petition fee.

81. On January 19, 2005, OED sent Respondent the First Request, informing him that OED was investigating the return for insufficient funds of several checks and EFTs filed by Respondent with the USPTO.

82. Nonetheless, on February 4, 2005, Respondent filed PCT Patent Application Serial No. PCT/US/0503597 (the '597 application) along with a check for $2,459.00 drawn on his Fifth Third Account, check #8338, to cover various fees associated with the filing.

83. On February 15, 2005, the USPTO processed check #8338, but it was returned for insufficient funds.

84. The filing fees for the '597 application were subsequently paid from Respondent's deposit account with the USPTO.

85. On February 24, 2005, Respondent billed the client, Jonathon A. Mandelbaum (Mandelbaum) $5,159.00, by invoice # 4022, for services, including $2,459.00 for "Government Filing Fees for: PCT International Filing."

86. On or about April 25, 2005, Mandelbaum paid Respondent the $5,159.00 fee, including the $2,459.00 for the "Government Filing Fees for: PCT International Filing."

87. Respondent intended to, but did not, advance his own funds in regard to check #8338.

88. On May 5, 2005, Respondent paid the returned check service fee required by 37 C.F.R. § 1.21(m).

89. Respondent was the attorney of record in Patent Application U.S. Serial No. 09/959,065 (the '065 application) at all relevant times.

90. On October 16, 2001, Respondent filed the '065 application along with an authorization to permit the USPTO to charge any additional fees that may have been required to his deposit account with the USPTO.

91. On April 23, 2004, the USPTO sent Respondent a final Office action. The Office action expressly stated that a response was required within a three month shortened statutory period. Thus, a timely response was due by July 23, 2004. A response could also have been filed, along with the appropriate extension fees, up to October 25, 2004 (October 23, 2004 being a Saturday), after which time, the '065 application would become abandoned for failure to respond. *See* 37 C.F.R. §§ 1.136(a) and 1.17(a).

92. On October 25, 2004, Respondent filed a reply, a Notice of Appeal, and a petition for a three month extension of time, along with the appropriate extension fees.

93. On November 19, 2004, the USPTO sent an Advisory Action to Respondent advising him that the reply filed on October 25, 2004 did not place the '065 application in condition for allowance, and that a Brief on Appeal must be filed within the period set forth in 37 C.F.R. 1.192(a) [now reserved], or any extension thereof to avoid abandonment of the '065 application. Under the regulation then in effect, a timely response was due by December 27, 2004 (December 25, 2004 being a Saturday), and could be extended with up to two months to February 25, 2005.

94. On February 9, 2005, Respondent filed a Request for Reconsideration Under 37 C.F.R. § 1.116, a petition for a two month extension of time, and a check for $225.00 drawn on his Fifth Third Account, check #1004, to pay the two month extension of time fee.

95. On or about January 28, 2005, Respondent billed his client's foreign associate, Cabinet Pierre Herrburger (Herrburger), $2,887.00, by invoice #4037, for services and "Government Filing Fees for: Petition for Extension of Time for Two Months."

96. On or about June 3, 2005, Herrburger paid Respondent the $2,887.00 fee, including $225.00 for the two month extension of time.

97. Respondent intended to, but did not, advance his own funds in regard to check #1004.

98. On February 15, 2005, the USPTO processed check #1004, but it was later returned for insufficient funds.

99. Although Respondent had authorized the USPTO to charge any additional fees that may have been required to Respondent's deposit account with the USPTO, there were insufficient funds in the account to pay the fee between the day check #1004 was received (*i.e.*, February 14, 2005) and the expiration of the two month period for which an extension of time was sought (*i.e.*, February 28, 2005). Specifically, Respondent's deposit account had a balance of only $107.00 on February 14, 2005. Although $300.00 was credited to the account on February 28, 2005, prior charges against the account for a

service fee and a charge for another patent application left a balance of only $107.00, which was insufficient to pay the two month extension of time fee in the '065 application.

100. On March 3, 2005, not realizing that the two month extension of time fee had not been paid because check #1004 was dishonored, the USPTO sent an Advisory Action to Respondent advising him that the Request for Reconsideration that he filed on February 9, 2005 did not place the '065 application in condition for allowance, and that a Brief on Appeal complying with 37 C.F.R. § 41.37 must be filed within two months of the date that the Notice of Appeal was filed (37 C.F.R. § 41.37(a)), or any extension thereof (37 C.F.R. § 41.37(e)) to avoid dismissal of the appeal and/or abandonment of the application.

101. On March 28, 2005, Respondent filed a Second Request for Reconsideration Under 37 C.F.R. § 1.116, a petition for a three month extension of time, and a check for $285.00 to "cover[] the Extension of Time fee for the difference of the previously paid two month extension of time and the three month extension of time hereby requested as required by 37 C.F.R. 1.17." The check for $285.00 was honored.

102. On May 31, 2005, Respondent filed a Brief on Appeal, a petition for a five month extension of time, and authorized the USPTO to charge $820.00 to Respondent's deposit account to "cover[] the Extension of Time fee for the difference of the previously paid three month extension of time and the five month extension of time hereby requested as required by 37 C.F.R. § 1.17 as well as the Appeal Brief fee." A fee of $1,080.00 was due for a five month extension of time. The USPTO charged Respondent's deposit account $795.00 for the five month extension of time, giving him credit for payment of the $285.00 previously paid.

103. Respondent's submission of the Request for Reconsideration Under 37 C.F.R. § 1.116, petition for an extension of time, check and authorization to charge deficiencies to his deposit account induced the USPTO to act upon the Request and petition by issuing the Advisory Action, although the required fee for an extension of time had not been paid.

104. As of the filing of the Complaint, Respondent had not paid the USPTO the funds received from Herrburger for the outstanding two month extension of time fee in the '065 application.

105. As of the filing of the Complaint, Respondent had not informed the USPTO where the funds received from Herrburger are located, or whether the funds were returned to Herrburger.

106. As of the filing of the Complaint, although Herrburger paid Respondent the $225.00 two month extension of time fee in January 2005, Respondent negligently retained and commingled the funds received from the client for recording the assignment.

107. As of the filing of the Complaint, Respondent had not paid the $50.00 fee required by 37 C.F.R. § 1.21(m) for processing dishonored check #1004. Respondent subsequently restituted the USPTO the fee.

108. On August 24, 2006, the USPTO sent Respondent a Notice of Allowance and Fees Due in the '065 application. The Notice expressly stated that the issue and publication fees were due three months from the date the notice was mailed, and that the "statutory period cannot be extended" (emphasis original).

109. On December 28, 2006, the USPTO sent Respondent an Office communication, informing him that the previously allowed '065 application was now abandoned for failure to timely pay the required issue and publication fees detailed in the August 24, 2006 Notice of Allowance and Fees Due.

110. Respondent was the attorney of record in Patent Application U.S. Serial No. 10/100,951 (the '951 application) at all relevant times.

111. On March 19, 2002, Respondent filed the '951 application with the USPTO.

112. On October 4, 2004, the USPTO sent a Notice of Allowance to Respondent, advising him that a $685.00 issue fee and a $300.00 publication fee were due in the '951 application by January 4, 2005.

113. On December 8, 2004, new patent fees went into effect, and the patent issue fee for a small entity was increased from $685.00 to $700.00.

114. On January 4, 2005, Respondent filed a check for $985.00 to pay the issue fee and the $285.00 publication fee. However, because of the intervening fee increase, the check for $985.00 was insufficient to pay the $15.00 increase in the issue fee.

115. On February 2, 2005, the USPTO sent Respondent a Notice To Pay Balance of Issue Fee.

116. On February 15, 2005, Respondent filed a reply to the February 2nd Notice with a check for $25.00 drawn on his Fifth Third Account, check #1005.

117. On February 16, 2005, the USPTO processed check #1005, but it was later returned for insufficient funds.

118. On or about February 23, 2005, Respondent billed his client, the Minister Machine Company (Minister Machine), $57.00, by invoice #4018, for services and "Government Filing Fees for: Balance of Issue Fee Payment."

119. On or about March 7, 2005, Minister Machine paid Respondent the $57.00 fee, which included the $25.00 billed for the "Government Filing Fees."

120. Respondent misrepresented the amount of the balance due on the issue fee in invoice #4018 as being $25.00 instead of $15.00. Respondent has since restituted Minster Machine via Money Order for the $10 difference.

121. As of the filing of the Complaint, Respondent had not used the funds received from Minister Machine to pay the $15.00 balance due on the issue fee.

122. Respondent negligently commingled the $15.00 received from Minister Machine.

123. On March 8, 2005, U.S. Patent No. 6,862,983 ('983 patent) issued from the '951 application even though Respondent had not paid the $15.00 balance due for the issue fee.

124. Respondent's actions induced the USPTO to issue the '983 patent without proper payment of all required fees, *i.e.*, $15.00 of the full issue fee price.

125. As of the filing of the Complaint, Respondent had not paid the $50.00 fee required by 37 C.F.R. § 1.21(m) for processing returned check #1005. Respondent subsequently restituted the USPTO the fee.

126. Respondent was the attorney of record in Patent Application U.S. Serial No. 11/055,149 (the '149 application) at all relevant times.

127. On January 19, 2005, OED sent Respondent the First Request, informing him that OED was investigating the return for insufficient funds of several checks and EFTs filed by Respondent with the USPTO.

128. On February 10, 2005, Respondent filed the '149 application, assignment papers, and a check for $540.00 drawn on his Fifth Third Account, check #8352, to pay the small entity filing fees ($150.00 basic filing fee, $250.00 search fee, and $100 examination fee), as well as the $40 fee for recording the assignment. Respondent also authorized the USPTO to charge any additional fees under 37 C.F.R. § 1.16 or 1.17 to his deposit account with the USPTO.

129. On February 15, 2005, the USPTO processed check #8352, but it was later returned for insufficient funds.

130. On February 23, 2005, not realizing that the assignment recording fee had not been paid because check #8352 was dishonored, the USPTO recorded the assignment filed by Respondent on February 10, 2005.

131. On or about March 9, 2005, Respondent charged his client, Engineering Mechanics Corporation (EMC), $760.00, by invoice #4038, for services and "Government Filing Fees for: Utility Filing," "Government Filing Fees for: Search," "Government Filing Fees for: Examination," and "Government Filing Fees for: Recordation of Assignment."

132. On or about, April 1, 2005, EMC paid Respondent the $760.00 fee.

133. Respondent intended to, but did not, advance his own funds in regard to check #8352.

134. On April 25, 2005, the USPTO sent Respondent a Notice to File Missing Parts of Nonprovisional Application, advising him that the required fees were missing from the materials originally filed in the '149 application, and that Respondent must submit these fees and pay a $65.00 late filing fee surcharge within two months of the Notice to avoid abandonment of the '149 application.

135. On June 6, 2005, Respondent filed a reply providing payment for the filing, search, examination and late filing surcharge fees, but failed to provide payment for either the $40 assignment recording fee or the $50.00 fee for processing dishonored check #8352.

136. Although Respondent authorized the USPTO to charge any additional fees under 37 C.F.R. § 1.16 or § 1.17 to his deposit account with the USPTO, the fee for recording an assignment is required under 37 C.F.R. § 1.21 and the fee for processing a dishonored check is required under 37 C.F.R. § 1.21. Thus, any monies in Respondent's deposit account could not be used to pay the assignment recording fee or the dishonored check processing fee.

137. The USPTO recorded the assignment papers that Respondent originally filed with the '149 application, despite Respondent's failure to actually pay the required recording fee.

138. As of the filing of the Complaint, Respondent had not submitted the $40.00 fee required under 37 C.F.R. § 1.21 for recording the assignment in the '149 application.

139. As of the filing of the Complaint, Respondent had not informed OED where the funds he received from EMC to pay the assignment recording fee were deposited, or whether he has returned those funds to EMC.

140. As of the filing of the Complaint, although EMC paid Respondent the $40.00 assignment recordation fee in April 2005, Respondent negligently retained and commingled the funds received from the client for recording the assignment, and failed to pay the funds to the USPTO.

141. As of the filing of the Complaint, Respondent had also failed to pay the $50.00 processing fee required by 37 C.F.R. § 1.21(m) for dishonored check #8352. Respondent subsequently restituted the USPTO the fee.

142. Respondent was the attorney of record in Patent Application U.S. Serial No. 10/305,723 ('723 application) at all relevant times.

143. On November 27, 2002, Respondent filed the '723 application.

144. On August 17, 2006, the USPTO sent an Office action in the '723 application to Respondent. The Office action expressly stated that a response was required within a three month shortened statutory period. Thus, a timely response was due by November 17, 2006, and a response could also have been filed, along with the appropriate extension fees, up to February 20, 2007 (February 17th being a Saturday, and February 19th being a Federal holiday). After which time, the '723 application would become abandoned for failure to respond. *See* 37 C.F.R. §§ 1.136(a) and 1.17(a).

145. On February 20, 2007, Respondent filed a reply, a petition for a three month extension of time, and a check for $510.00 drawn on his Three Rivers Account, check #9166, to pay the three month extension of time fee. Respondent also authorized the USPTO to charge any additional fees that may have been required to his deposit account with the USPTO.

146. On February 26, 2007, the USPTO processed check #9166, but it was returned for insufficient funds.

147. On March 13, 2007, the USPTO charged Respondent's deposit account for the extension of time fee, and there were sufficient funds in the account to cover the extension of time, and the $50.00 processing fee required by 37 C.F.R. § 1.21(m) for dishonored check #9166.

148. U.S. Patent No. 6,254,703 (the '703 patent) issued on July 3, 2001.

149. Respondent was the attorney of record in the '703 patent at all relevant times.

150. The maximum term for a patent is 20 years from the date of filing. *See* 35 U.S.C. § 154. To maintain a patent in force for the full life of its term, maintenance fees must be paid at three-and-a-half, seven-and-a-half and eleven-and-a-half year intervals. *See* 35 U.S.C. § 41(b). Each of these payments may be made up to six months after they are due with a surcharge for late payment. *Id.* If the maintenance fees are not timely paid, the patent will expire prematurely. *Id.* Thus, if maintenance fees were timely paid on the '703 patent, it would not expire until February 19, 2019. *See* 35 U.S.C. §§ 41(b) and 154.

151. The three-and-a-half year maintenance fee in the '703 patent was due January 3, 2005, and could be paid with a surcharge during the six month grace period between January 4, 2005 and July 5, 2005. *See* 35 U.S.C. § 41(b).

152. On August 18, 2004, Respondent filed with the USPTO a starter check for $455.00 from his Fifth Third account to pay the three-and-a-half year maintenance fee in the '703 patent.

153. On or about August 18, 2004, Respondent billed the client, LSP Technologies, Inc. (LSP), by invoice #3573, a fee of $555.00: $100.00 for processing maintenance fee payment, and $455.00 for the three-and-a-half year maintenance fee in the '703 patent.

154. On August 24, 2004, the USPTO processed the August 18, 2004 starter check, but it was returned for insufficient funds.

155. On or about August 25, 2004, LSP paid Respondent $543.90, and Respondent discounted the balance, $11.10.

156. On October 18, 2004, Respondent filed with the USPTO a check for $520.00 from his Fifth Third Account, check #8158, to pay the outstanding three-and-a-half year maintenance fee in the '703 patent and the $50.00 surcharge for the dishonored starter check.

157. On November 17, 2004, the USPTO processed check #8158, but it too was returned for insufficient funds.

158. On January 19, 2005, OED sent Respondent the First Request, informing him that OED was investigating the return for insufficient funds of several checks and EFTs filed by Respondent with the USPTO.

159. On January 19, 2005, the USPTO also sent Respondent a maintenance fee reminder notice advising him that $515.00 was due in the '703 patent to pay the three-and-a-half year maintenance fee and the late payment surcharge. The maintenance fee reminder did not reference the fees for processing the dishonored checks and EFT.

160. On or about February 18, 2005, Respondent or someone in his office authorized an EFT of $515.00 through his Fifth Third Account to the USPTO to pay the outstanding maintenance fee and the surcharge for processing a returned check.

161. On February 22, 2005, the USPTO processed the EFT, but Fifth Third Bank issued a written notice that the transaction was declined due to insufficient funds.

162. On March 17, 2005, Matthew Lee, Director, Receipts Accounting Division, Office of Finance for the USPTO, sent Respondent a communication stating that each of the three payments he made in the '703 patent had been returned for insufficient funds, and requesting that Respondent send the USPTO $665.00: a $450.00 three-and-a-half year maintenance fee, a $65.00 late filing surcharge fee, and a $150.00 ($50.00 x 3) processing fee for the dishonored checks and EFT.

163. On March 31, 2005, the three-and-a-half year maintenance fee and late payment surcharge were eventually paid.

164. As of the filing of the Complaint, Respondent had not paid the required $150.00 ($50.00 x 3) in processing fees required by 37 C.F.R. § 1.21(m) for the three previously dishonored payments, *i.e.*, the Fifth Third Account starter check, check #8158, and the March 4, 2005 EFT. Respondent subsequently restituted the USPTO the fees.

165. U.S. Patent No. 6,291,794 (the '794 patent) issued on September 18, 2001.

166. Respondent was the attorney of record in the '794 patent at all relevant times.

167. Payment of the three-and-a-half year maintenance fee for the '794 patent was due between September 18, 2004 and March 18, 2005. If not paid by March 18, 2005, the fee and a surcharge were due if paid between March 18, 2005 and September 18, 2005. If not paid by September 18, 2005, the '794 patent would expire prematurely on September 18, 2005.

168. On February 8, 2005, Respondent filed with the USPTO a check for $900.00 drawn on his Fifth Third Account, check #1003, to pay the three-and-a-half year maintenance fee due in the '794 patent (*i.e.*, $450), as well as the three-and-a-half year maintenance fee due in a different patent by the same inventor that issued on the same day.

169. On February 23, 2005, the USPTO processed check #1003, but it was returned for insufficient funds.

170. Respondent intended to, but did not, advance his own funds in regard to check #1003.

171. Respondent receives monthly statements regarding his Fifth Third Account and, thus, had notice of returned check #1003.

172. Nevertheless, on March 23, 2006, the USPTO sent Respondent a letter, informing him about, *inter alia*, returned check #1003.

173. Despite his knowledge that the three-and-a-half year maintenance fee had not been paid in the '794 patent, according to John Beavers, general counsel for Respondent's client, LSP, Respondent never informed LSP that the three-and-a half year maintenance fee had not been paid or that the '794 patent had prematurely expired as a result.

174. According to John Beavers, LSP paid Respondent $450.00 to cover the three-and-a half year maintenance fee, and as of the filing of the Complaint, Respondent had not returned these monies to LSP. Respondent subsequently restituted LSP the $450 fee.

175. As of the filing of the Complaint, Respondent had not paid the $450.00 fee for the three-and-a-half year maintenance fee in the '794 patent.

176. As of the filing of the Complaint, Respondent had not paid the $50.00 processing fee required by 37 C.F.R. § 1.21(m) for dishonored check #1003. Respondent subsequently restituted the USPTO the fee.

177. U.S. Patent No. 6,292,584 (the '584 patent) issued on September 18, 2001.

178. Respondent was the attorney of record in the '584 patent at all relevant times.

179. Payment of the three-and-a-half year maintenance fee for the '584 patent was due between September 18, 2004 and March 18, 2005. If not paid by March 18, 2005, the fee and a surcharge were due if paid between March 18, 2005 and September 18, 2005. If not paid by September 18, 2005, the '584 patent would expire prematurely on September 18, 2005.

180. On February 8, 2005, Respondent filed with the USPTO a check for $900.00 drawn on his Fifth Third Account, check #1003, to pay the three-and-a-half year maintenance fee due in the '584 patent (*i.e.*, $450), as well as the three-and-a-half year maintenance fee due in a different patent by the same inventor that issued on the same day.

181. On February 23, 2005, the USPTO processed check #1003, but it was returned for insufficient funds.

182. Respondent intended to, but did not, advance his own funds in regard to check #1003.

183. Respondent receives monthly statements regarding his Fifth Third Account and, thus, had notice of returned check #1003.

184. Nevertheless, on March 23, 2006, the USPTO sent Respondent a letter, informing him about, *inter alia*, returned check #1003.

185. Despite his knowledge that the three-and-a-half year maintenance fee had not been paid in the '584 patent, according to John Beavers, general counsel for LSP, Respondent never informed LSP that the three-and-a half year maintenance fee had not been paid or that the '584 patent had prematurely expired as a result.

186. According to John Beavers, LSP paid Respondent $450.00 to cover the three-and-a half year maintenance fee, and as of the filing of the Complaint, Respondent had not returned these monies to LSP. Respondent subsequently restituted to LSP the $450.00 fee.

187. As of the filing of the Complaint, Respondent had not paid the $450.00 fee for the three-and-a-half year maintenance fee in the '584 patent.

188. As of the filing of the Complaint, Respondent had not paid the $50.00 processing fee required by 37 C.F.R. § 1.21(m) for dishonored check #1003. Respondent subsequently restituted the USPTO the fee.

189. The '987 patent issued on September 7, 1993.

190. Payment of the eleven-and-a-half year maintenance fee in the '987 patent was due between September 7, 2004, and March 7, 2005. If not paid by March 7, 2005, the fee and a surcharge were due if paid between March 8, 2005 and September 7, 2005. If not paid by September 7, 2005, the '987 patent would expire prematurely on September 8, 2005.

191. On or about March 8, 2005, Respondent billed the client's foreign associate, Fukumori, $4,080.00, by invoice #4036, for services and "Government Filing Fees for: Payment of 11.5 Year Maintenance Fee – Large Entity," including $3,800.00 for the maintenance fee and $130.00 late payment surcharge.

192. On or about March 9, 2005, Respondent or someone at his firm authorized an EFT of $3,930.00 from his Fifth Third Account, Routing Code 074908594, to pay the eleven-and-a-half year maintenance fee ($3,800.00) and the late payment surcharge ($130.00) in the '987 patent.

193. Respondent intended to, but did not, advance his own funds in regard to the EFT.

194. On or about August 30, 2005, Fukumori paid Respondent the $4,080.00 fee.

195. On March 23, 2005, the USPTO processed the March 9, 2005 EFT, but it was returned for insufficient funds.

196. On August 29, 2005, the USPTO eventually received EFT payment of the outstanding maintenance fee and surcharge from Respondent.

197. As of the filing of the Complaint, Respondent had not paid the $50.00 fee required by 37 C.F.R. § 1.21(m) for processing the dishonored March 9, 2005 EFT. Respondent subsequently restituted the USPTO the fee.

198. U.S. Patent No. 6,370,738 (the '738 patent) issued on April 16, 2002.

199. Respondent was the attorney of record in the '738 patent at all relevant times.

200. Payment of the three-and-a-half year maintenance fee for the '738 patent was due between April 16, 2005 and October 16, 2005. If not paid by October 16, 2005, the fee and a surcharge were due if paid between October 16, 2005 and April 18, 2006 (April 16, 2006 being a Saturday). If not paid by April 18, 2006, the '738 patent would expire prematurely on April 19, 2006.

201. On April 18, 2005, Respondent filed with the USPTO a check for $900.00 drawn on his Fifth Third Account, check #8522, to pay the three-and-a-half year maintenance fee.

202. On April 22, 2005, the USPTO processed check #8522, but it was returned for insufficient funds.

203. On or about April 20, 2005, Respondent charged the client, Tokheim, $1,000.00, by invoice # 4099, for services, including $900.00 for the three-and-a-half year maintenance fee.

204. On or about July 7, 2005, Tokheim paid Respondent the $1,000.00 fee, including the $900.00 for the three-and-a-half year maintenance fee.

205. Respondent intended to, but did not, advance his own funds in regard to check #8522.

206. On October 13, 2005, the USPTO eventually received authorization from Respondent to charge his deposit account with the USPTO for the three-and-a-half year maintenance fee and surcharge.

207. Thus, Respondent failed to pay the outstanding fees in the '738 patent for over three months after receiving payment from Tokheim.

208. On November 11, 2005, seven months after he originally filed check #8522, Respondent paid the processing fee required by 37 C.F.R. § 1.21(m) for the dishonored check.

209. U.S. Patent No. 5,254,229 (the '229 patent) issued on October 19, 1993.

210. Payment of the eleven-and-a-half year maintenance fee for the '229 patent was due between October 19, 2004 and April 20, 2005. If not paid by April 20, 2005, the fee and a surcharge were due if paid between April 21, 2005 and October 19, 2005. If not paid by October 19, 2005, the patent would expire prematurely on October 20, 2005.

211. On April 19, 2005, Respondent filed with the USPTO a check for $3,800 drawn on his Fifth Third Account, check #8524, to pay the eleven-and-a-half year maintenance fee.

212. On April 25, 2005, the USPTO processed check #8524, but it was returned for insufficient funds.

213. On or about April 21, 2005, Respondent billed the client's foreign associate, Fukumori, a fee of $3,950, by invoice #4104, for services and "Government Filing Fees for: Payment of 11.5 Year Maintenance Fee – Large Entity," including $3,800.00 for the eleven-and-a-half year maintenance fee.

214. On or about May 27, 2005, Fukumori paid Respondent $3,950.00, including the $3,800.00 for the "Government Filing Fees."

215. Respondent intended to, but did not, advance his own funds in regard to check #8524.

216. On October 20, 2005, the '229 patent expired prematurely because Respondent failed to timely pay the eleven-and-a-half year maintenance fee.

217. On November 30, 2005, Respondent paid the processing fee required by 37 C.F.R. § 1.21(m) for dishonored check #8524.

218. As of the filing of the Complaint, Respondent had not paid the USPTO the monies he received from Fukumori to pay the eleven-and-a-half year maintenance fee in the '229 patent.

219. Respondent did not inform Fukumori about his failure to pay the eleven-and-a-half year maintenance fee in the '229 patent.

220. Respondent did not return to Fukumori the funds he received to pay the eleven-and-a-half year maintenance fee in the '229 patent.

221. Respondent's failure to timely pay fees caused the '229 patent to expire prematurely, and caused Fukumori to incur the added expenses associated with the filing and fees necessary to reinstate the expired '229 patent. More specifically, Fukumori had to hire and pay other counsel to file a Petition for Acceptance of Unintentional Delayed Payment of Maintenance Fee in Expired Patent to Reinstate Patent under 37 C.F.R. § 1.378, and had to pay $3,800 to cover the eleven-and-a-half-year maintenance fee, and $1,640 to cover fees associated with late payment.

222. Respondent negligently retained and commingled the funds he received from the Wolf Corporation ("Wolf") on June 13, 2005.

223. U.S. Patent No. 5,682,109 (the '109 patent) issued on October 28, 1997.

224. Payment of the seven-and-a-half year maintenance fee for the '109 patent was due between October 28, 2004 and April 28, 2005. If not paid by April 29, 2005, the fee and a surcharge were due if paid between April 29 and October 28, 2005. If not paid by October 28, 2005, the patent would expire prematurely on October 29, 2005.

225. On April 27, 2005, Respondent filed with the USPTO a check for $1,150.00 drawn on his Fifth Third Account, check #8539, to pay the seven-and-a-half year maintenance fee.

226. On May 3, 2005, the USPTO processed check #8539, but it was returned for insufficient funds.

227. On or about May 5, 2005, Respondent billed the client's foreign associate, Fukumori, $1,270.00, by invoice #4161, for "7 YR. Process Payment of Maintenance Fee Government Filing Fees for: 7.5 Year Maintenance Fee – Small Entity," including $1,150.00 for the seven-and-a-half year maintenance fee.

228. On or about June 28, 2005, Fukumori, paid Respondent the $1,270.00 fee, including the $1,150.00 for the seven-and-a-half year maintenance fee.

229. Respondent intended to, but did not, advance his own funds in regard to check #8539.

230. On October 29, 2005, the '109 patent expired prematurely because Respondent failed to timely pay the seven-and-a-half year maintenance fee.

231. On October 30, 2005, Respondent paid the processing fee required by 37 C.F.R. § 1.21(m) for dishonored check #8539.

232. As of the filing of the Complaint, Respondent had not paid the USPTO the monies he received from Fukumori to pay the seven-and-a-half year maintenance fee in the '109 patent.

233. Respondent did not inform Fukumori about his failure to pay the seven-and-a-half year maintenance fee in the '109 patent.

234. Respondent did not return to Fukumori the funds he received to pay the seven-and-a-half year maintenance fee in the '109 patent.

235. Respondent's failure to timely pay fees caused the '109 patent to expire prematurely, and caused Fukumori to incur the added expenses associated with the filing and fees necessary to reinstate the expired '109 patent. More specifically, Fukumori had to hire and pay other counsel to file a Petition for Acceptance of Unintentional Delayed Payment of Maintenance Fee in Expired Patent to Reinstate Patent under 37 C.F.R. § 1.378, and had to pay $1,150 to cover the seven-and-a-half-year maintenance fee, and $1,640 to cover fees associated with late payment.

236. U.S. Patent No. 6,384,368 (the '368 patent) issued on May 7, 2002.

237. Respondent was the attorney of record in the '368 patent at all relevant times.

238. Payment of the three-and-a-half year maintenance fee for the '368 patent was due between May 9, 2005 (May 7, 2005 being a Saturday) and November 8, 2005. If not paid by November 8, 2005, the fee and a surcharge were due if paid between November 9, 2005 and May 8, 2006 (May 7, 2006 being a Sunday). If not paid by May 8, 2006, the patent would expire prematurely on May 9, 2006.

239. On May 9, 2005, Respondent filed a check for $2,500.00 drawn on his Fifth Third Account, check #8550, to pay the payment of maintenance fees in four patents, including the three-and-a-half year maintenance fee in the '368 patent.

240. On May 12, 2005, the USPTO processed check #8550, but it was returned for insufficient funds.

241. On or about May 9, 2005, Respondent billed the client, LSP Technologies, Inc. (LSP), $550.00, by invoice #4168, for " 3 Yr. - Process Payment of Maintenance Filing Fee for: 3.5 Year Maintenance Fee Payment – Small Entity," including $450.00 for the three-and-a-half year maintenance fee in the '368 patent.

242. On or about May 19, 2005, LSP paid Respondent $539.00, including $450.00 for the three-and-a-half year maintenance fee, and Respondent discounted the $11.00 balance.

243. Respondent intended to, but did not, advance his own funds in regard to check #8550.

244. On December 13, 2005, nearly seven months after receiving payment from LSP for the three-and-a-half year maintenance fee, Respondent authorized the USPTO to charge his deposit account with the USPTO the outstanding maintenance fee ($450.00) and the surcharge required by 37 C.F.R. § 1.20(h) ($65.00) for late payment.

245. On November 30, 2005, Respondent paid the processing fee required by 37 C.F.R. § 1.21(m) for dishonored check #8550.

246. U.S. Patent No. 6,373,876 (the '876 patent) issued on April 16, 2002.

247. Respondent was the attorney of record in the '876 patent at all relevant times.

248. Payment of the three-and-a-half year maintenance fee for the '876 patent was due between April 18, 2005 (April 16, 2005 being a Saturday) and October 17, 2005 (October 16, 2005 being a Sunday). If not paid by October 17, 2005, the fee and a surcharge were due if paid between October 17, 2005 and April 17, 2006 (April 16, 2006 being a Sunday). If not paid by April 17, 2006, the '876 patent would expire prematurely on April 18, 2006.

249. On or about May 9, 2005, Respondent filed with the USPTO a check for $2,500.00 drawn on his Fifth Third Account, check #8550, to pay the payment of maintenance fees in four patents, including the three-and-a-half year maintenance fee in the '876 patent.

250. On May 12, 2005, the USPTO processed check #8550, but the check was returned for insufficient funds.

251. On or about May 9, 2005, Respondent billed the client, LSP, $550.00, by invoice #4166, for "3 Yr. - Process Payment of Maintenance Fee Government Filing Fee for: 3.5 Year Maintenance Fee Payment – Small Entity," including $450.00 for the maintenance fee.

252. On or about May 19, 2005, LSP paid Respondent $539.00, including $450.00 for the three-and-a-half year maintenance fee, and Respondent discounted the $11.00 balance.

253. Respondent intended to, but did not, advance his own funds in regard to check #8550.

254. On October 14, 2005, nearly six months after receiving payment from LSP for the three-and-a-half year maintenance fee, Respondent authorized the USPTO to charge his deposit account with the USPTO the outstanding maintenance fee ($450.00).

255. On November 30, 2005, Respondent paid the processing fee required by 37 C.F.R. § 1.21(m) for dishonored check #8550.

256. U.S. Patent No. 6,359,257 (the '257 patent) issued on March 19, 2002.

257. Respondent was the attorney of record in the '257 patent at all relevant times.

258. Payment of the three-and-a-half year maintenance fee for the '257 patent was due between March 21, 2005 and September 20, 2005. If not paid by September 20, 2005, the fee and a surcharge were due if paid between September 21, 2005 and March 20, 2006. If not paid by March 20, 2006, the '257 patent would expire prematurely on March 21, 2006.

259. On May 9, 2005, Respondent filed with the USPTO a check for $2,500.00 drawn on his Fifth Third Account, check #8550, to pay the payment of maintenance fees in four patents, including the three-and-a-half year maintenance fee in the '876 patent.

260. On May 12, 2005, the USPTO processed check #8550, but it was returned for insufficient funds.

261. On or about May 9, 2005, Respondent billed the client, LSP, $550.00, by invoice #4167, for "3 Yr. - Process Payment of Maintenance Fee Government Filing Fee for: 3.5 Year Maintenance Fee Payment – Small Entity," including $450.00 for the three-and-a-half year maintenance fee in the '257 patent.

262. On or about May 19, 2005, LSP paid Respondent $539.00, including $450.00 for the three-and-a-half year maintenance fee, and Respondent discounted the $11.00 balance.

263. Respondent intended to, but did not, advance his own funds in regard to check #8550.

264. On December 13, 2005, nearly seven months after receiving payment from LSP for the three-and-a-half year maintenance fee, Respondent authorized the USPTO to charge his deposit account with the USPTO the outstanding maintenance fee ($450.00) and the surcharge required by 37 C.F.R. § 1.20(h) ($65.00) to cover the surcharge for late payment.

265. On November 30, 2005, Respondent paid the processing fee required by 37 C.F.R. § 1.21(m) for dishonored check #8550.

266. U.S. Patent No. 5,741,559 (the '559 patent) issued on April 21, 1998.

267. Respondent was the attorney of record in the '559 patent at all relevant times.

268. Payment of the seven-and-a-half year maintenance fee for the '559 patent was due between April 21, 2005 and October 24, 2005. If not paid by October 24, 2005, the fee and a surcharge were due if paid between October 25, 2005 and April 21, 2006. If not paid by April 21, 2006, the '559 patent would expire prematurely on April 22, 2006.

269. On May 9, 2005, Respondent filed with the USPTO a check for $2,500.00 drawn on his Fifth Third Account, check #8550, to pay the payment of maintenance fees in four patents, including the seven-and-a-half year maintenance fee in the '559 patent.

270. On May 12, 2005, the USPTO processed check #8550, but it was returned for insufficient funds.

271. On or about May 9, 2005, Respondent billed the client, LSP, $1,270.00, by invoice # 4165, for "7 Yr. - Process Payment of Maintenance Fee Government Filing Fee for: 7.5 Year Maintenance Fee Payment – Small Entity," including $1,150.00 for the seven-and-a-half year maintenance fee in the '559 patent.

272. On or about May 19, 2005, LSP paid Respondent $1,244.60, including $1,150.00 for the seven-and-a-half year maintenance fee, and Respondent discounted the $25.40 balance.

273. Respondent intended to, but did not, advance his own funds in regard to check #8550.

274. On October 15, 2005, nearly five months after receiving payment from LSP for the seven-and-a-half year maintenance fee, Respondent sent an EFT to the USPTO to pay the outstanding maintenance fee ($1,150.00).

275. On November 30, 2005, Respondent paid the processing fee required by 37 C.F.R. § 1.21(m) for dishonored check #8550.

276. U.S. Patent No. 5,688,330 (the '330 patent) issued on November 18, 1997.

277. Payment of the seven-and-a-half year maintenance fee for the '330 patent was due between November 18, 2004 and May 19, 2005. If not paid by May 19, 2005, the fee and a surcharge were due if paid between May 20, 2005 and November 18, 2005. If not paid by November 18, 2005, the '330 patent would expire prematurely on November 19, 2005.

278. On or about May 18, 2005, Respondent or someone in his office authorized an EFT of $1,150.00 from his Fifth Third Account to the USPTO for payment of the seven-and-a-half year maintenance fee in the '330 patent.

279. On May 19, 2005, the USPTO processed the May 18, 2005 EFT, but it was returned for insufficient funds.

280. On or about May 18, 2005, Respondent also charged the client's foreign associate, Fukumori, $1,270.00, by invoice # 4187, for services and "Maintenance Fee Government Filing Fees for: 7.5 Year Maintenance Fee - Small Entity," including $1,150.00 for the seven-and-a-half year maintenance fee in the '330 patent.

281. On or about May 31, 2005, Respondent was notified by his bank that the EFT had been returned for insufficient funds.

282. On or about August 30, 2005, Fukumori paid the $1,270.00 fee, including the $1,150.00 for the seven-and-a-half year maintenance fee in the '330 patent.

283. Respondent intended to, but did not, advance his own funds in regard to the May 18, 2005 EFT.

284. On November 18, 2005, the '330 patent expired prematurely because the seven-and-a-half year maintenance fee was not paid on time.

285. On November 30, 2005, Respondent paid the processing fee required by 37 C.F.R. § 1.21(m) for the dishonored May 18, 2005 EFT.

286. As of the filing of the Complaint, Respondent had not paid the USPTO the monies he received from Fukumori to pay the seven-and-a-half year maintenance fee in the '330 patent.

287. Respondent did not inform Fukumori about his failure to pay the seven-and-a-half year maintenance fee in the '330 patent.

288. Respondent did not return to Fukumori the funds he received to pay the seven-and-a-half year maintenance fee in the '330 patent.

289. Respondent's failure to timely pay fees caused the '330 patent to expire prematurely, and caused Fukumori to incur the added expenses associated with the filing and fees necessary to reinstate the expired '330 patent. More specifically, Fukumori had to hire and pay other counsel to file a Petition for Acceptance of Unintentional Delayed Payment of Maintenance Fee in Expired Patent to Reinstate Patent under 37 C.F.R. § 1.378, and had to pay $1,150 to cover the seven-and-a-half-year maintenance fee, and $1,640 to cover fees associated with late payment.

290. In a statement dated December 13, 2005, Respondent indicated that he had "replace[d]" the seven-and-a-half year maintenance fee in the '330 patent 'at cost.'" However,

Respondent had notice that the May 19, 2005 EFT had been dishonored for insufficient funds in May 2005.

291. U.S. Patent No. 5,160,429 (the '429 patent) issued on November 3, 1993.

292. Respondent identifies the '429 patent as "FUK-143."

293. Payment of the eleven-and-a-half year maintenance fee in the '429 patent was due between November 3, 2003 and May 3, 2004. If not paid by May 3, 2004, the fee and a surcharge were due if paid between May 4, 2004 and November 3, 2004. If not paid by November 3, 2004, the patent would expire prematurely on November 4, 2004.

294. On April 26, 2004, Respondent filed with the USPTO a Maintenance Fee Transmittal form and a check for $3,220.00 drawn on his Three Rivers Account, check #7886, to pay the eleven-and-a-half year maintenance fee. The April 26th Maintenance Fee Transmittal form did not contain an authorization to charge Respondent's deposit account with the USPTO for any fees due.

295. On May 3, 2004, the USPTO processed check #7886, but it was returned for insufficient funds.

296. On or about June 4, 2004, Respondent billed his client $1,760.00, by invoice #3334, for services and "Government Filing Fees for: Yr 12 Maintenance Fee (Small Entity)," including $1,610.00 for the eleven-and-a-half year maintenance fee in the '429 patent.

297. On or about September 14, 2004, the client paid Respondent the $1,760.00 fee, including the $1,610.00 for the eleven-and-a-half year maintenance fee in the '429 patent.

298. Respondent intended to, but did not, advance his own funds in regard to check #7886.

299. On November 4, 2004, the '429 patent expired prematurely because the eleven-and-a-half year maintenance fee was not timely paid.

300. On January 10, 2005, Respondent filed a Petition For Acceptance of Maintenance Fee Payment with the USPTO. In the Petition to Reinstate, Respondent stated that it had "come to [his] attention that the Twelfth [*sic*] Year Maintenance Fee still shows unpaid."

301. In the Petition to Reinstate, Respondent also averred that he had already paid the eleven-and-a-half year maintenance fee in the '429 patent by check #7886 on April 26, 2004. In support of this assertion, Respondent enclosed a copy of a Maintenance Fee Transmittal Form that included a typed date of April 26, 2004 within the form, and a memo below the form stating "[F]UK-143 Scanned and Signed Petition for Acceptance of Maintenance Fee Payment as filed in the USPTO on 10-20-2004," and a Maintenance Fee History referencing a "refund" on May 24, 2004 of payment of the maintenance fee. Respondent

also submitted a copy of the return postcard indicating that check #7886 accompanied the Maintenance Fee Transmittal form he filed on April 26, 2004.

302. Respondent's bank statements from the Three Rivers Federal Credit Union cover the first to the last day of the preceding month, and are received by Respondent's office by about the middle of the month following the period covered by the statements.

303. Accordingly, Respondent knew or should have known from his bank statements in May or June 2004 that check #7886 had been returned unpaid when he filed the Petition to Reinstate on January 10, 2005.

304. In contrast, in the Petition to Reinstate and accompanying documents that Respondent filed on January 10, 2005, Respondent failed to disclose that check #7886 had been returned for insufficient funds.

305. On May 23, 2005, Respondent filed another Petition To Accept Unintentionally Delayed Payment Of Maintenance Fee In An Expired Patent (37 C.F.R. §1.378(c)) together with a check for $3,540.00 to pay the fees associated with the petition, and a separate check for $50.00 drawn on his Fifth Third Account, check #8577, to pay the processing fee required by 37 C.F.R. § 1.21(m) for dishonored check #7886.

306. On May 24, 2005, the USPTO processed check #8577, and it was honored.

307. U.S. Patent No. 5,957,461 (the '461 patent) issued on September 28, 1999.

308. Respondent was the attorney of record in the '461 patent at all relevant times.

309. Payment of the seven-and-a-half year maintenance fee for the '461 patent was due between September 28, 2006 and February 28, 2007. If not paid by February 28, 2007, the fee and a surcharge are due if paid between March 1, 2007 and September 28, 2007. If not paid by September 28, 2007, the '461 patent will expire prematurely on September 28, 2007.

310. On February 21, 2007, Respondent filed with the USPTO a check for $2,300.00 drawn on his Fifth Third Account, check #9183, to pay the seven-and-a-half year maintenance fee.

311. Respondent intended to, but did not, advance his own funds in regard to check #9183.

312. On February 27, 2007, the USPTO processed check #9183, but it was returned for insufficient funds. Although Respondent authorized the USPTO to charge his deposit account with the USPTO for any fees owing in the '461 patent, there were not enough funds in his deposit account to cover the $2,300.00 fee. More specifically, there was only $1,075.00 in Respondent's deposit account in February 2007.

313. As of the filing of the Complaint, Respondent had not paid the $2,300.00 fee for the seven-and-a-half year maintenance fee in the '461 patent.

314. As of the filing of the Complaint, Respondent had not paid the $50.00 processing fee required by 37 C.F.R. § 1.21(m) for dishonored check #9183. Respondent subsequently restituted the USPTO the fee.

315. Trademark Reg. No. 2,246,590 (the '590 trademark), "COTTONIQUE", was registered on May 18, 1999.

316. Respondent was the attorney of record in the '590 trademark registration at all relevant times.

317. In order to maintain federal trademark registration, the registration owner must submit Section 8 affidavits on the six year anniversary of registration. 15 U.S.C. § 1058. More specifically, the owner of a registered mark must submit: a specimen showing current use in commerce of the registered mark on or in connection with the goods and/or services in the registration, a verified statement that the specimen was in used in commerce during the relevant period, and a required fee. 15 U.S.C. § 1058(b). A registration owner may make the Section 8 submissions at any time in the year preceding the six year anniversary. 15 U.S.C. § 1058(b). The owner may also make the submissions up to six months after the six year anniversary by paying a late submission surcharge. 15 U.S.C. § 1058(c).

318. If proper Section 8 submissions are not timely made by the end of a six month grace period, then the trademark registration is permanently cancelled.

319. Trademark registration owners may also file a Section 15 affidavit on the six year anniversary to establish "[i]ncontestability of [the] right to use [a] mark." 15 U.S.C. § 1065. More specifically, the owner of the mark may submit an affidavit showing that the trademark was used in commerce for five consecutive years. *Id.* If "incontestable status" is conferred, ownership rights to use the mark in connection with specified goods or services may not be challenged unless the mark becomes "generic." *Id.* Section 15 submissions are typically filed along with Section 8 submissions.

320. Although Section 15 submissions are not mandatory, many registration owners seek the "incontestable status" that Section 15 submissions facilitate.

321. The Section 8 and 15 submissions were due in the '590 trademark between May 18, 2004 and May 18, 2005. If not made by May 18, 2005, the submission and a surcharge were due between May 19, 2005 and November 18, 2005. If not properly made by November 18, 2005, the '590 trademark registration would expire on November 19, 2005.

322. On May 18, 2005, Respondent filed with the USPTO a combined Section 8 and 15 affidavit in the '590 trademark.

323. However, the specimen Respondent filed with the Section 8 affidavit did not include the mark "COTTONIQUE," which is expressly required by statute. *See* 15 U.S.C. § 1058(b).

324. On May 18, 2005, Respondent or someone else at his firm also authorized an EFT for $300 from his Fifth Third Account to the USPTO to pay the Section 8 affidavit fee ($100) and the Section 15 filing fee ($200) in the '590 application.

325. On or about May 19, 2005, Respondent charged the client, Wolf, $408.00, by invoice #4201, for "Draft and File Section 8 & 15 Affidavit, Government Filing Fee for: Section 15 Affidavit Government Filing Fee for Section 8 Declaration of Use" including $300.00 for the government filing fees for the affidavit and declaration.

326. On May 27, 2005, the USPTO processed the EFT, but it was dishonored for insufficient funds.

327. On or about June 13, 2005, Wolf paid the $408.00 fee, including the $300.00 for the "Government Filing Fees."

328. Respondent intended to, but did not, advance his own funds to pay the EFT.

329. As of the filing of the Complaint, Respondent had not advised the USPTO where he deposited the funds he received from Wolf on or about June 13, 2005.

330. Respondent negligently retained and commingled the funds he received from Wolf on June 13, 2005.

331. As of the filing of the Complaint, Respondent had not paid the $50.00 fee required by 37 C.F.R. § 1.21(m) for processing the dishonored May 18, 2005 EFT. Respondent subsequently restituted the USPTO the fee.

332. On June 30, 2005, unaware that the May 27, 2005 EFT had been denied, the USPTO acted upon the Sections 8 and 15 Combined Affidavit submitted by Respondent.

333. Thus, Respondent obtained a service for which he did not pay, *i.e.*, consideration of the combined Sections 8 and 15 affidavit.

334. On June 30, 2005, the USPTO sent Respondent a communication, notifying him that the Section 8 specimen that he provided did not include the (required) registered mark. The communication expressly set a six month period for response, and required submission of a $100 surcharge, for correcting deficiencies after the end of the six month grace period for the Section 8 submission.

335. Prior to this disciplinary action, Respondent had not been the subject of any disciplinary investigation or action before the USPTO.

336. Respondent acknowledges the wrongful nature of the complained of conduct and is remorseful regarding the same.

337. Respondent has cooperated with the USPTO in this disciplinary action.

338. Prior to the filing of the Complaint, Respondent voluntarily enrolled in the Tennessee Lawyers Assistance Program on or about June 8, 2005.

339. After the filing of the Complaint in this action, Respondent filed with the USPTO another check that was returned for insufficient funds. Specifically, on November 9, 2007, Respondent filed a check for $750.00 drawn on his Fifth Third Account, check #9307, to pay the Preliminary Examination Fee and WIPO Handling Fee in PCT Application No. PCT/US06/11349. On or about November 13, 2007, the USPTO processed check #9307, but the check was returned for insufficient funds.

LEGAL CONCLUSIONS

340. Based upon the foregoing stipulated facts, Respondent acknowledges that his conduct violated the following Disciplinary Rules of the USPTO Code of Professional Responsibility:

a. Rule 10.23(b)(3) by engaging in illegal conduct involving moral turpitude;

b. Rule 10.23(b)(4) by engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation;

c. Rule 10.23(b)(5) by engaging in conduct prejudicial to the administration of justice;

d. Rule 10.23(b)(6) by engaging in conduct that adversely reflects on his fitness to practice before the USPTO;

e. Rule 10.23(c)(3) by misappropriating or failing to properly and timely remit funds received by a practitioner or a practitioner's firm from a client to pay a fee which the client is required by law to pay to the USPTO;

f. Rule 10.77(b) by inadequate preparation in the circumstances;

g. Rule 10.77(c) by neglecting a legal matter entrusted to him;

h. Rule 10.89(c)(6) by intentionally or habitually violating the disciplinary rules;

i. Rule 10.112(a) by commingling or misappropriating client funds advanced for extensions of time; and

j. Rule 10.112(c)(2) by failing to safeguard advanced client funds.

SANCTIONS

Based on the foregoing, it is:

341. **ORDERED** that the Final Order incorporates the above-stipulated facts and legal conclusions.

342. **ORDERED** that Respondent is suspended from practicing patent, trademark and other non-patent law before the USPTO for three years from the date of this Final Order.

343. **ORDERED** that the OED Director publish the Final Order.

344. **ORDERED** that the OED Director publish the following Notice in the Official Gazette:

Notice of Suspension

> Randall J. Knuth, of Centerville, Ohio, a patent attorney whose registration number is 34,644, has been suspended from practice before the Office for a period of three years. This action is taken pursuant to the provisions of 35 U.S.C. § 32 and 37 C.F.R. § 10.133(g).

345. **ORDERED** that the OED Director give notice to appropriate employees of the USPTO, courts, and authorities of Ohio, Indiana, and any other state in which Respondent is known to be a member of the bar; and any appropriate bar association. 37 C.F.R. § 10.159(a).

346. **ORDERED** that within 30 days of the date of this Final Order, Respondent shall, in accordance with 37 C.F.R. § 10.158(b)(2), surrender each client's active USPTO case file(s) to (1) each client or (2) another practitioner designated by each client, and shall file proof thereof with the OED Director within the same 30 day period.

347. **ORDERED** that during the period Respondent is suspended any communication relating to a client matter that is addressed to Respondent and/or received by him shall be immediately forwarded to the client or the practitioner designated by the client, and that Respondent will take no other legal action in the matter, enter any appearance, or provide any legal advice concerning the matter that is the subject of the communication, all in accordance with 37 C.F.R. §§ 10.158(a), (b)(2), (b)(6).

348. **ORDERED** that within 30 days of the date of this Final Order, Respondent shall, in accordance with 37 C.F.R. §§ 10.158(b)(8) and 10.160(d), return to any client having immediate or prospective business before the Office any unearned legal funds, including any unearned retainer fee, and any securities and property of the client, and shall file proof thereof with the OED Director no later than filing his petition for reinstatement.

349. **ORDERED** that after the date of this Final Order, Respondent shall promptly take steps to comply with the provisions of 37 C.F.R. §§ 10.158(b)(3), (b)(4), (b)(5), (b)(6), and (b)(7), and further, within 30 days of taking steps to comply with § 10.158(b)(4) Respondent shall file with the OED Director an affidavit describing the precise nature of the steps taken, and still further directing that Respondent shall submit proof of compliance with §§ 10.158(b)(3), (b)(5), (b)(6), and (b)(7) with the OED Director upon filing a petition for reinstatement under 37 C.F.R. § 10.160.

350. **ORDERED** that after the date of this Final Order, Respondent shall promptly take steps to fully comply with the provisions of 37 C.F.R. §§ 10.158(c) and (d).

351. **ORDERED** that following the suspension for three years in compliance with the foregoing provisions, Respondent may apply for reinstatement to practice effective upon filing a petition for reinstatement and an affidavit showing compliance with the following conditions:

a. Respondent demonstrates compliance with 37 CFR §§ 10.158 and 10.160; and

b. Respondent demonstrates that he has restituted any funds received from clients for submission to the USPTO which were retained and commingled as outlined in the stipulated facts.

352. **ORDERED** that all parties shall bear their own costs.

2/21/08
Date

James A. Toupin
General Counsel
United States Patent and Trademark Office

On behalf of
Jon W. Dudas
Under Secretary of Commerce For Intellectual Property and Director of the United States Patent And Trademark Office

cc: Harry I. Moatz
OED Director

Randall J. Knuth
255 Regency Ridge
Centerville, OH 45459
(260) 602-6344

CERTIFICATE OF SERVICE

I certify that one copy of the foregoing FINAL ORDER was caused to be mailed by First Class Certified Mail, return receipt requested, today to the Respondent at the last known forwarding address of the Respondent, as follows:

Randall J. Knuth
255 Regency Ridge
Centerville, OH 45459
(260) 602-6344

Date 2/21/08

Macia L. Fletcher
United States Patent and Trademark Office
P. O. Box 16116
Arlington, VA 22215