United States Patent and Trademark Office

Office of the Commissioner for Trademarks

December 6, 2019

Iara N. Morton
Noguiera Morton PL
1395 Brickell Ave., Suite 900
Miami, FL 33131

Re: Serial No. 88096578

SHOW CAUSE ORDER

Dear Ms. Morton:

It has come to the attention of the United States Patent and Trademark Office (USPTO) that U.S. Application Serial No. 88096578 sets forth false information in connection with the requirements of 37 C.F.R. § 2.11(a). Specifically, the Response to Office Action form submitted on August 8, 2019 ("offending paper") falsely designated an attorney named Xiaoyang Fiona Wang, as the attorney of record and correspondent.[1] Furthermore, the offending paper was apparently signed by a person who improperly entered Ms. Wang's electronic signature. The submission was made without Ms. Wang's knowledge or consent.

Therefore, as explained below, the USPTO is considering striking the offending paper, affecting the weight given to the offending paper, or terminating the proceedings in connection with the application. This show-cause order is part of a proceeding that may affect the registrability of the mark and thus constitutes good and sufficient cause to suspend examination of the application. *See* 37 C.F.R. § 2.67. Accordingly, the USPTO may suspend action on the above-referenced application pending a response to this order.

Relevant Rules of Practice in Trademark Cases Before the USPTO

Under the USPTO's rules of practice, an applicant, registrant, or party to a trademark proceeding whose domicile is not located within the United States or its territories must be represented at the USPTO by an attorney who is an active member in good standing

[1] The public may view and print images of the contents of trademark application and registration records through the Trademark Status and Document Retrieval (TSDR) database on the USPTO website at http://tsdr.uspto.gov/.

of the bar of the highest court of a U.S. state or territory. *See* 37 C.F.R. §§ 2.11(a), 11.1, 11.14(a). Thus, all foreign-domiciled trademark applicants must designate a U.S.-licensed attorney who will file trademark-related submissions with the USPTO. *See* 37 C.F.R. §§ 2.11(a), 2.18(a), 2.193(e). When an attorney is appointed, the USPTO will correspond only with the attorney. 37 C.F.R. § 2.18(a).

Providing false, fictitious, or fraudulent information in connection with the requirement for U.S. counsel is considered submitting a paper for an improper purpose in violation of 37 C.F.R. § 11.18(b) and is subject to the sanctions and actions set forth in 37 C.F.R. § 11.18(c). *See* 37 C.F.R. § 2.11(e). Those sanctions and actions include striking the offending paper, terminating the proceedings, or other actions deemed appropriate under the circumstances. 37 C.F.R. § 11.18(c).

In addition, trademark correspondence must be personally signed. 37 C.F.R. §§ 2.193(a), (c)(1), 11.18(a). When a document is submitted electronically, the person identified as the signatory must personally enter the elements of the electronic signature. 37 C.F.R. §§ 2.193(c)(1); 11.18(a). Another person may not sign the name of an applicant, attorney, or other authorized signatory. *See Trademark Manual of Examining Procedure* (TMEP) § 611.01(c).

Furthermore, under 37 C.F.R § 11.18(b), the party presenting a document to the USPTO, whether by signing, filing, or submitting it, is certifying that all statements made therein of the party's own knowledge are true, all statements made on information and belief are believed to be true, and all statements are made with the knowledge that knowingly and willfully making false, fictitious, or fraudulent statement or presentations is subject to penalties set forth under 18 U.S.C. § 1001, and may jeopardize the probative value of the paper.

Improper Designation of Attorney of Record

The above-referenced application designates an owner address that is located outside of the United States or its territories. Thus, the applicant is foreign-domiciled and must be represented by a U.S.-licensed attorney. 37 C.F.R. § 2.11(a).

Although a new attorney has appeared, a submission in the application record sets forth the name "Xiaoyang Fiona Wang" as both the attorney of record and correspondent. The submission also includes bar membership information consistent with Ms. Wang's admission to the North Carolina State Bar, but sets forth the mailing and email addresses of a third-party.

Although Ms. Wang is a U.S.-licensed attorney who may practice before the USPTO in trademark matters, she has informed the USPTO that (i) she is not the attorney of record in the application; (ii) she did not consent to be listed as such; (iii) she has no ongoing relationship with the applicant named in the application; (iv) she has never used the email address listed in the application; and (v) her legal practice is not located at the address

listed for correspondence in the application. Please see the attached supporting declaration from Ms. Wang.

In addition, a submission in the application record names "Xiaoyang Fiona Wang" as the signatory, but the attached supporting declaration from Ms. Wang indicates that she did not sign the submission.

Show Cause Requirement

The Commissioner for Trademarks possesses the authority to manage and direct all aspect of the activities of the USPTO that affect the administration of trademark operations. *See* 35 U.S.C. §§ 2, 3; TMEP § 1709. This includes the authority to impose sanctions on parties who submit a paper in a trademark matter for an improper purpose. *See* 35 U.S.C. § 3(b)(2)(A); 37 C.F.R. §§ 2.11(a), (e), 11.18(b)(2), (c).

In this case, the evidence indicates that a submission in the application record sets forth false and possibly fraudulent information. Specifically, the above-referenced offending paper lists Xiaoyang Fiona Wang as the attorney of record without her knowledge or consent. The circumstances suggest that the information was knowingly provided to the USPTO for the improper purpose of circumventing the requirement for U.S. counsel, in violation of 37 C.F.R. § 2.11(e) and 37 C.F.R. § 11.18(b). Accordingly, the applicant is subject to the sanctions and actions provided in 37 C.F.R. § 11.18(c).

In view of the foregoing, the applicant is hereby ordered to show cause why the USPTO should not strike the offending paper, affect the weight given to the offending paper, or terminate the proceedings. The USPTO will consider the applicant's response in determining the appropriate sanctions. If the application proceeding is terminated, no further examination of the application will occur, and the USPTO's records will be updated to indicate that the application has been terminated.

The applicant's showing must include detailed answers to the following request for information:

(1) Explain the circumstances surrounding the preparation and filing of the offending paper identified above. Please also identify who prepared this document and who filed it.

(2) Explain the applicant's relationship with Xiaoyang Fiona Wang. If applicant believes that Ms. Wang agreed to represent the applicant before the USPTO in this application, state the basis for such belief and provide any supporting documents.

(3) Explain why the signatory in the offending paper is identified as Xiaoyang Fiona Wang and identify who entered the signature.

The response must be received at the following address on or before the close of business within **45 days** of the date of this letter.

U.S. Patent and Trademark Office
Commissioner for Trademarks
Attn: Administrator for Trademark Policy & Procedure
600 Dulany Street
Madison Building East, 10th Floor
Alexandria, Virginia 22313-1450

Or via e-mail to TMPolicy@uspto.gov.

The response must explicitly identify the sender and his/her relationship to the applicant. The response must come from an officer of the juristic applicant, or an attorney qualified to represent the applicant under 37 C.F.R. §11.14(a).

Failure to timely respond or failure to overcome the evidence that the offending paper was submitted for an improper purpose will result in the USPTO undertaking one or more of the actions specified above.

Sincerely,

Mary Boney Denison
Commissioner for Trademarks

Ms. Xiaoyang (Fiona) Wang
Law Office of Fiona Wang, PLLC
1750 NW Maynard Road, Ste. 100-16
Cary, NC 27513
United States

United States Patent & Trademark Office
Office of the Deputy Commissioner for Trademark Examination
P.O. Box 1451
Alexandria, Virginia 22313-1451
United States of America

[redacted]

Pursuant to 28 U.S.C. §1746 and 37 C.F.R. §2.20, I, Xiaoyang Wang, declare the following:

1. I am a licensed attorney in good standing with the State Bar of North Carolina, and an inactive attorney with the State Bar of New York. I was admitted by North Carolina State Bar in 2016.
2. I have been made aware by the USPTO that my name was listed as an attorney on record/correspondent/signatory in about fifty trademark applications before the USPTO, the list of which were identified and provided to me by USPTO in attached **Exhibit A_Applications/Registrations Listing Xiaoyang Fiona Wang as the Attorney of Record** (hereinafter as "Exhibit A").
3. I am not aware of any other person with the name "Xiaoyang Wang" authorized to represent others before the USPTO.
4. I do not practice in trademark law, and have never represented any party in a trademark matter before the USPTO.
5. I do not and have never filed any trademark application or registration documents with the USPTO as of September 18, 2019.
6. I do not and have never agreed to serve as an attorney/correspondent/signatory for trademark applications or registrations before the USPTO on behalf of any party before the USPTO as of September 18, 2019.
7. I do not maintain any mailing address at 1601 Walnut St, Suite 201, Cary NC 27511.
8. I do not and have never used the email address "mengsustone@gmail.com", "lishuilian@ytxip.com", or "888@ytxip.com", which I understand appear as email address associated with Law Office of Fiona Wang, PLLC and/or my name in many U.S. Trademark applications and registrations
9. I do not have any ongoing affiliation and have never had any past affiliation with Xue Chaoxing of Xiamen, China, which I understand appear as the applicant associated with

Law Office of Fiona Wang, and/or my name in many U.S. trademark applications and registrations.

10. I do not have any ongoing affiliation and have never had any past affiliation with Hardkoo Wu, or Huaguo Wu of Shenzhen China, which I understand appear as the trademark applicant/owner associated with Law Office of Fiona Wang, and/or my name in many U.S. trademark applications and registrations.
11. I do not and have never intended to represent any identified applicant or registrant as involved in the identified U.S. trademarks and registrations filed with USPTO as listed in Exhibit A, which was associated with Law Office of Fiona Wang, PLLC, and/or my name, as of the date of September 18, 2019.
12. To the best of my knowledge, there is no reason for my name or signature to appear on any filing in connection with any of the identified trademark applications or registrations as listed in attached Exhibit A, as I am not aware of any identified applicant and their identified trademark applications until being notified by the USPTO officer.
    a. I do not have any association with or connection to any of the owners listed in these trademark applications or registrations as listed in attached Exhibit A;
    b. I do not have the legal authority to bind the owners of these trademark applications or registrations as listed in attached Exhibit A;
    c. I do not have any firsthand knowledge of the facts contained in any identified trademark application, response, amendment to allege use, or other trademark filing associated with these applications or registrations as listed in attached Exhibit A.
13. I respectfully request the assistance of the USPTO to remove my name and correspondence information from the relevant fields of all relevant records filed on or before the date of September 18, 2019.

I declare under perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on: September 18, 2019

Xiaoyang Wang

Xiaoyang Wang

EXHIBIT_A

Applications/Registrations Listing
Xiaoyang Fiona Wang as the Attorney of Record

Serial Number	Literal Element	Filing Date
87944272	ZIBTES	6/1/2018
88096578	DELERAIN	8/29/2018
88299167	FONEEDGO	2/13/2019
88299176	FONEEDGO	2/13/2019
88317507	ROLIAST	2/27/2019
88343392	VIMPRO	3/18/2019
88349527	TEWANEL	3/20/2019
88354028	PREFER TO LIFE	3/25/2019
88387054	COTTONBLUE	4/16/2019
88405819	VKAVIN	4/28/2019
88405830	MAVRIZ	4/28/2019
88428593	KANCE'S	5/14/2019
88430681	TOOL4SELLER	5/15/2019
88430692	TOOL4SELLER	5/15/2019
88436367	CASAVERDE	5/17/2019
88436380	SOLIDURE	5/17/2019
88447203	SRD POWER	5/27/2019
88458148	GBBNE	6/4/2019
88506748	DOUKING	7/9/2019
88548106	DOKUNSIN	7/30/2019
88553013	SPS	7/31/2019
88570849	SORTA SWEET SORTA SAVAGE	8/8/2019
88573943	INSGREEING	8/9/2019
88573949	ZHARANGES	8/9/2019
88573954	ISICERSS	8/9/2019
88573959	BEIBOURE	8/9/2019
88573962	HEQIANCO	8/9/2019
88573966	WATER MAGIC	8/9/2019
88573983	SARLISI	8/10/2019
88573986	SARLISI	8/10/2019
88573992	SARLISI	8/10/2019
88573993	SARLISI	8/10/2019
88573995	SARLISI	8/10/2019
88573997	PKNOCLAN	8/10/2019
88574664	KEIMIX	8/12/2019
88576053	AUKIITA	8/12/2019
88577846	P	8/14/2019
88577853	[DESIGN MARK]	8/14/2019
88579438	BALLHULL	8/14/2019
88579478	PERALICE	8/14/2019
88579547	ICNY	8/15/2019

88582601	WOKKOL	8/16/2019
88582660	AIEMOK	8/17/2019
88582687	LAUKOWIND	8/17/2019
88582692	HEALPARK	8/17/2019
88583265	HANSPROU	8/19/2019
88584637	MICHAELMAS KORADJI	8/19/2019
88584651	MICHAELMAS KORADJI	8/19/2019
88584670	TICTIKEY	8/19/2019