

# EXHIBIT A



# Proper representation in trademark matters

Filing a trademark application with the United States Patent and Trademark Office (USPTO) starts a legal proceeding that is governed by U.S. law. While an applicant may represent itself in this legal proceeding, we strongly recommend that foreign applicants, and any applicants who are unfamiliar with the trademark application process, hire an attorney with expertise in trademark matters to represent them and provide legal advice.

## Who is permitted to represent you in a trademark matter before the USPTO, such as a trademark application?

Under U.S. federal regulations, the only individuals who may represent an applicant or registrant in trademark matters before the USPTO are:

- You, in a matter involving the trademark you own.
  - You may file on your own behalf and represent yourself in an application for registration of a mark that you own.
  - You may file a trademark application for a trademark owned by a partnership of which you are a partner, or by a corporation, limited liability company, or other legally formed organization of which you are an officer or the equivalent and which you are authorized to represent.
- A private trademark attorney who is licensed in the United States and is authorized to practice before the USPTO.
- Canadian agents or attorneys who are authorized by the USPTO to represent applicants located in Canada.
- Certain trademark agents recognized to practice before the USPTO prior to January 1, 1957.

Employing a foreign attorney or other individual who is not authorized to practice before the USPTO to represent you in connection with your trademark application may:

- Delay and prolong the trademark application examination process.
- Lead to the abandonment of your application.
- Jeopardize the validity of any resulting registration.

Except as noted above, **non-attorneys and foreign attorneys may not perform any of the following actions** as a representative of another person in trademark matters before the USPTO:

- Consulting with or giving advice to an applicant or registrant in contemplation of filing a trademark application or application-related document.

- Preparing or prosecuting an application, response, post-registration maintenance document, or other related document.
- Signing amendments to applications, responses to Office actions, petitions to the Director, requests to change the correspondence address, or requests for express abandonment.
- Authorizing issuance of examiner's amendments and priority actions.
- Conducting an appeal or an opposition, cancellation, or concurrent use proceeding before the Trademark Trial and Appeal Board.

The unauthorized practice of trademark law before the USPTO is a serious matter and we will take appropriate actions if unauthorized practice is occurring. These actions may include:

- Rejecting application submissions that were improperly signed or authorized.
- Excluding individuals and entities from acting as an attorney, correspondent, signatory, or domestic representative in all trademark matters before the USPTO.

For information on what you should do if the USPTO has excluded the party representing you, visit [Applicants and Registrants Represented by Excluded Parties](#)

## Using a qualified private trademark attorney to file your trademark application

While a USPTO trademark examining attorney will try to help you through the examination process even if you do not hire an attorney, our attorneys are not permitted to give you legal advice.

A private trademark attorney who is licensed in the United States and is authorized to practice before the USPTO may:

- Help you avoid future costly legal problems by conducting a comprehensive search of federal registrations, state registrations, and "common law" unregistered trademarks before you file your application. Comprehensive searches are important because other trademark owners may have protected legal rights in trademarks similar to yours that are not federally registered. Therefore, those trademarks will not appear in our [Trademark Electronic Search System](#) database, but could still ultimately prevent your use of your mark.
- Help you during the application process with several things that could seriously impact your trademark rights, such as determining the best way to describe your goods and services and preparing responses to refusals to register your mark that the USPTO examining attorney may issue.
- Assist you after your mark is registered by filing registration maintenance documents and by taking actions to help you police and enforce your trademark rights. While the USPTO registers trademarks, you, as the trademark owner, are fully responsible for any enforcement of your private trademark rights.

The USPTO has established a Law School Clinic program in which participating law schools provide free legal services to trademark applicants in connection with trademark applications before the USPTO. Each school in the program has its own criteria for accepting clients. If you are interested, you should contact a participating school to inquire about becoming a client. For a list of participating schools and additional information about the program, visit [Law School Clinic Certification Program](#).

For more information on finding a qualified private attorney to assist you, visit [Using Private Legal Services](#).

## Signatures on trademark applications and associated documents

All documents submitted to the USPTO in connection with a trademark application or registration must be signed by a proper person.

The proper person to sign depends on the nature of the submission. Certain submissions may be signed by anyone with firsthand knowledge of the facts and actual or implied authority to act on behalf of the applicant, while others must be signed by the appointed attorney, or by the applicant if no attorney is appointed.

All signatures must be personally entered by the individual person identified as the signatory. Thus, another person may not sign the name of an attorney or other authorized signer. Signatures "by the corporation" or "by the firm" are not permitted.

**Improperly signed submissions may delay or prolong the application process, may lead to the abandonment of your application, and may jeopardize the validity of any resulting registration. If the USPTO determines that a submission is improperly signed, the submission will not be accepted and any arguments, evidence, or amendments set forth in the submission will not be considered or entered.**

### Verifications of Facts

A verification signature is submitted for the purpose of verifying facts in a document on behalf of an applicant.

The signatures on the following submissions are considered to be verification signatures:

- Trademark applications.
- Allegations of use.
- Requests for extension to file a statement of use.
- Declarations in support of substitute specimens and claims of acquired distinctiveness.

Verification signatures may be signed by any of the following individuals: (1) a person with legal authority to bind the applicant; (2) a qualified attorney representing the applicant; or (3) a person with firsthand knowledge of the facts and actual or implied authority to act on behalf of the applicant.

### Responses, Amendments, Changes of Correspondence, Express Abandonments, and Other Submissions

The signature requirements for responses to Office actions; amendments to applications; requests for reconsideration; requests to divide; requests to change the correspondence address; designations and revocations of domestic representatives; and requests for express abandonments are more specific about who must sign. For these submissions, if the applicant is represented by a qualified attorney, the attorney must sign.

If you are an individual applying for registration of a trademark that you own, and you are not represented by a qualified attorney, then you must sign these submissions; signatures by anyone other than you are generally not acceptable.

If the applicant is a juristic entity (i.e., not an individual person) and is not represented by a qualified attorney, then someone with legal authority to bind the applicant must sign these submissions. Therefore, if the applicant is a corporation, a corporate officer, such as a president or vice president, is presumed to have the legal authority to bind the

applicant. Likewise, a partner is presumed to have the appropriate legal authority to bind an applicant that is organized as a partnership. On the other hand, signatories identified by terminology such as “trademark administrator,” “business manager,” “owner’s designated agent,” or similar titles are presumed to be unauthorized signatories.

Finally, if there is more than one applicant, and no qualified attorney has been appointed, then all applicants must sign these submissions.

# EXHIBIT B



# Trademark Assistance Center

## Trademark Assistance Center (TAC)

600 Dulany Street

Madison East, Concourse Level

Alexandria, VA 22314

Local: 571-272-9250 (press 0)

Toll-Free: 800-786-9199 (option 1)

[TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov)

The Trademark Assistance Center (TAC) is the main support center for all customers, from first-time filers to legal professionals and experienced trademark applicants. We can answer your questions on a variety of trademark topics.

### Contact us for:

- General information about registering a trademark
- Trademark literature and publications
- Updates on the status of trademark applications and registrations
- Answers to case-specific questions about an application or registration
- Help navigating electronic forms and systems
- Help finding information on our website about the meaning of trademark terms and concepts, how to start the application process, application and registration timelines, and more.

### We cannot give legal advice. This includes:

- Advising applicants on proper responses to USPTO Office actions
- Conducting pre-filing searches for potentially conflicting trademarks
- Analyzing or pre-approving documents before filing
- Advising applicants on substantive examination issues, such as the acceptability of specimens and classification of goods and services.

### Hours

Type of assistance	Hours and contact information
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Type of assistance	Hours and contact information
<b>Contact center</b>	Monday-Friday, 8:30 a.m. to 8 p.m. ET Toll-free: 800-786-9199 (option 1) Local: 571-272-9250 (press 0) International: 1-571-272-9250 (press 0)
<b>Email</b>	<a href="mailto:TrademarkAssistanceCenter@uspto.gov">TrademarkAssistanceCenter@uspto.gov</a>
<b>Information window</b>	Monday-Friday, 8:30 a.m. to 5 p.m. ET Concourse level, Madison East Building 600 Dulany Street, Alexandria, Virginia No appointment necessary

**We are closed on weekends and the following federal holidays :**

New Year's Day	Memorial Day	Columbus Day
Martin Luther King Jr.'s birthday	Independence Day	Veterans Day
Washington's birthday	Labor Day	Thanksgiving Day
		Christmas Day

# EXHIBIT C



Here's the job you were looking for. Click it to see more details.

## Trademark Document Specialist (Temporary)

Fulfillment in Glendale, CA USA

Last online 4 weeks ago

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Every legal document tells a story, and every document we process here at LegalZoom touches a customer's life in a very real way, whether it's a document to help them start a business, protect an idea, or protect their family. That's why our Document Processors are so critical. We don't just rely on technology, but our specialists carefully review each document to ensure customer information is complete so that our customers are truly delighted by the final document they receive.

Our **Document Specialists** are extremely detail-oriented, have exceptional proofreading skills, can meet tight deadlines, and work with different legal products each day. It's all part of helping our customers achieve their dreams. This is a temporary position based in our Corporate offices in Glendale, CA.

### What you'll do:

- Assist Customers with inquiries via telephone in a call center environment and/or via email regarding government application requirements and order status.
- Proficiently utilize customer support tools, systems and procedures to provide accurate, authoritative and timely support solutions that exceed Customer expectations.
- Consistently demonstrate the ability to effectively handle difficult calls and emails.
- Prepare trademark documents ordered by LegalZoom customers.
- Utilize Customer feedback and prior occurrences to identify opportunities to continuously improve the Customers' experience and drive efficiency in the delivery of world-class customer support.
- Ensure operational and technical issues are communicated to management team.
- Support operations by cross-training on related jobs.
- Take direction from Leads, Assistant Managers and/or Managers as required.

### Qualifications:

- Exceptional written and verbal communication skills.
- Detail-oriented and results-driven.
- Ability to work with goals and quotas and excel in a high-pressure, fast-paced environment.

- Copyediting, proofreading, data entry, or academic grading experience.
- Proficiency with, and the ability to rapidly navigate between, the following applications and systems: Windows XP, MS Internet Explorer, Internet search engines, including but not limited to Google & Yahoo, Microsoft Office, including strong skills in Excel, Word, PowerPoint, & Outlook
- Self-starter who works well with or without supervision.
- Team player with excellent communication and interpersonal skills.
- Flexible and able to manage multiple assignments.
- BA/BS Degree preferred
- 1-2 years customer support experience in a high volume contact center, legal or service environment.
- Legal industry background, experience, knowledge or interest.
- Experience processing complex documents such as loan applications.

LegalZoom is an Equal Opportunity Employer, dedicated to diversity.

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Posted date: 28 days ago

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# EXHIBIT D



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## **FILE DETAILS**

*Audio Length:* 13 minutes

*Audio Quality:*  High  Average  Low

*Number of Facilitators:* One

*Number of Interviewees:* One

*Difficult Interviewee Accents:*  Yes  No

*Other Comments:*

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## **START OF TRANSCRIPT**

Operator: Thank you for calling LegalZoom. Please remain on the line to be connected to the next available representative. Need legal advice? No problem. Although the LegalZoom customer care specialists can't provide legal advice, our network of independent attorneys can. Ask us how. Calls may be recorded for quality assurance and training purposes.

[Music plays]

Operator: Thank you for holding.

[Music plays]

Operator: Thank you for holding.

[Music plays]

Facilitator: Thank you for calling LegalZoom. This is Will. How can I help you?

[Unclear] words are denoted in square brackets and time stamps may be used to indicate their location within the audio.

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Interviewee: Yeah, hi, Will. I have a trademark that I've requested filing through LegalZoom and they said that there's a problem with it, so I'm trying to just record and understand what I need to do so I can get this properly filed and moving forward.

Facilitator: Right. I understand this is the trademark review team, so we just always discuss these types of matters, but let me go ahead and ask you a few verification questions so I can secure your document. Can I verify your first and last name?

Interviewee: Sure. My name is Raj, R-A-J, and my last name is Abhyanker, A-B-H-Y-A-N-K-E-R.

Facilitator: What's the...

Interviewee: What's your name again? Your name is - what's...

Facilitator: My name is Will.

Interviewee: Will, okay.

Facilitator: Yeah. Second verification question. Can you verify the email address you use at LegalZoom?

Interviewee: R-A-J @ L-E-G-A-L-F-O-R-C-E-L-A-W dot com.

Facilitator: All right. Lastly, what is the name of the trademark that you're applying for?

Interviewee: [Drawmarkia].

Facilitator: Okay. Yeah, so we had some clarification required with the goods and services description.

Interviewee: Uh-huh.

Facilitator: Your artist and drawing services website for animation and videos for businesses. So basically the website's just there - so I don't know if you're trying to trademark the name for a software, like a software as a service, or if you just provide artist and drawing services directly, and you just use the website to promote those services so that you can provide animations of videos for businesses.

Interviewee: Yeah, so what I do is I want to allow customers that have small businesses and they want to make an animation video for their small business to explain what that business does, I want to make a stop motion sketch on a whiteboard and then have them create an animation for the video they can put on YouTube and on their website.

Facilitator: Are you allowing users to create these videos, or you're doing it direct? Are you providing the tools so that users can create their own, or are you doing it for them?

Interviewee: We do it for them and we basically get a questionnaire, what they want, then we write the storyboard, and then we do the artist's work and they can approve it. So we do all the artist stuff.

Facilitator: All right. So this is - when you write artist and drawing services, this is more like graphic illustration and drawing services. Right?

Interviewee: Right.

Facilitator: The reason I'm asking these questions is because we're trying to - the Trademark Office has a classification system and so if you were to, say, do illustration services like the old-fashioned pen and paper format, that's class 41. But anything digital, digitally created services are going to fall into class 42. So let me - because computer-related sources falls under that class. So let me take a look and see what pre-approved descriptions they have in their database. Then I'm going to run it by you and see if you want to use that description. Okay?

Interviewee: Okay.

Facilitator: I'm just wondering, because I'm using one of the template descriptions in their database, graphic illustration and drawing services mainly, and then I was going to put - and then in brackets it's - you make - you write what you want to write to make it indigenous to the applicant. So graphic illustration and drawing services, namely creating custom design of graphics and animation for the purpose of creating animation videos for businesses. But I'm just wondering if this should

just end up being creating animation videos for businesses, just as simple as that.

Interviewee: What do you think is better?

Facilitator: Well, so they come to you - I think the artist and drawing services are implied within the confines of - so if I want to come to you, I come to you because I want you to create a video for me, for my business, an animation video.

Interviewee: Right. Yeah. So I make...

Facilitator: Okay. So whatever you do to create those animation videos is on you, but as a consumer what I want you to give me is an animation video. So I think that we don't even have to indicate the illustration and drawing unless you do those as stand-alone services outside of creating the animation videos. But it's all about what Drawmarkia is going to brand identify. So if I think of LegalZoom, I think of them as a document processing company. Right?

Interviewee: Yes.

Facilitator: If I think of Drawmarkia, I'm going to think of, oh, I need to contact Drawmarkia so that they can create an animation video for me.

Interviewee: Right. Yes.

Facilitator: Would you agree with that? Does that make sense?

Interviewee: Yeah, I think I'll go with what you recommend.

Facilitator: Okay. So I put - I'm just checking out one other thing to see if I can incorporate this into the description. So they have a description in the database that just reads animation design for others. So I was going to kind of modify that so that it reads animation design for others, namely creating animation videos for businesses.

Interviewee: Okay. So is that the best description you think? Is that the best? Okay, yeah, whatever you think.

Facilitator: Yeah, I mean, as long - so these descriptions are not used for advertisement purposes. Right? So they're just there to steer your

trademark in its right designation or right classification, so that it's clear to the Trademark Office that you're looking to seek it - so in your case you're going to be either under class 42 or 35.

Interviewee: Okay.

Facilitator: Class 42, because animation design's in class - is a computer-related service and - but a simple description of animation design for others falls under that class. Class 35 would be because any type of service that you - one does that's used for the promotion or marketing of businesses, not that you're providing it themselves, but you're using that, sometimes falls under class 35. So it's not important to put the class code. It's more important to search those classes, so when we conduct the search, which is the next step, we're going to go ahead and see if anyone's using that name in either class 42 or 35, which would be the obstacles for you to get the trademark.

Interviewee: Okay. Cool. So, all right. Great.

Facilitator: Great. So I'll make the update to the document. I'll send you an email as a confirmation of the revision to your application.

Interviewee: So what do you recommend? So which one do you recommend? Do you recommend 32 or 45? Which one do you think is better?

Facilitator: Well, I recommend just not putting a class code, which you don't have to do. So you can designate a class code if you want, but if the Trademark Office feels that it should be the other class they're just going to send a correspondence that you have to reply back to. If you overlook it - it's not a problem, but if you overlook it, then it can be a problem, because they give you a deadline to respond. So it's best to just leave it blank so that they can just inform you which classification they're going to designate your trademark in.

Interviewee: Which one do you think fits better?

Facilitator: I don't know. I mean, animation design for others is 42, but it might be class 35 just because they do have - when you think of logos, you create logos as a digital. It's a graphic design work. But they have

marketing services, namely creating corporate logos for others. Typically people want to use logos to brand identify something, promote something. If I [take] up logos in class 42...

Interviewee: But we're not making logos. We're making little two-minute animations.

Facilitator: I know.

Interviewee: It's like drawing.

Facilitator: I absolutely understand that. I'm just using it as a correlative example. So they don't have anything animation in class 35, at least not that I know of. Okay, so here, they have one in class 35. It says, providing advertising services using 3D and animation designs. So who knows? It's not imperative to provide a classification upon submission of the application. They have forms that allow you to not indicate class code so they can simply do that for you.

Interviewee: Okay.

Facilitator: Even if you felt there was one class over the other, if they feel differently, they're just going to inform you of this and you have to agree to it, or state a reason why you don't want it to be that class. But, like I said, if you don't respond within a certain time, it will become abandoned and you have to pay a petition to revive fee within a certain amount of time. So let's just push this through without a classification code, unless you suggest otherwise, and I'll send you a confirmation email. Then we'll go ahead and have a search conducted.

Interviewee: I'll just do what you recommend, so whatever you recommend is good. Let's move it forward.

Facilitator: Okay. We'll go ahead and move it forward to the next step.

Interviewee: Okay. Thank you.

Facilitator: Do you have any other questions?

Interviewee: Can I start using my trademark now? Can I - what can I do with it?  
Can I use it for my website to advertise the...

Facilitator: Well, yeah, you can. You filed it under intent to use, meaning that you're not - you don't have the service available to others, at least not using this name to do that. But it won't hurt you to start using it and conversely, if you rather us just change the filing basis to use in commerce, and so we can take the screen shots of the website and we'll submit the materials to support your using commerce filing basis, we can do that. But if your interest is to try to get some form of trademark pending protection as soon as possible, then leaving it under the intent to use would be the best bet.

Interviewee: Okay. Then if I give you my website, what do I need to show? Is there - does the website - any website will work? Do I show my name on it or...

Facilitator: It doesn't matter. Yeah, it doesn't matter what the domain name is, so even if it's not drawmarkia.com. They're going to want to see that there's a prominent display of the name Drawmarkia on there and then there's an explanation of the services you provide and that it's clear that one could be able to obtain those services from you now.

Interviewee: Okay. So animation services and stuff for this. That would be enough.

Facilitator: Yeah.

Interviewee: Okay. Cool. Thank you so much. Yeah, let's move it forward. When will it be filed?

Facilitator: I don't know. So the search is going to take one to two business days. The sooner you reply back to that, the sooner we'll send you an email requesting your electronic signature.

Interviewee: Okay. Thank you so much. I'm ready to move forward...

Facilitator: Okay. Right.

Interviewee: ...and thanks.

Recorded

Page 8 of 8

[Over speaking]

Facilitator: Sounds good, Raj. We'll take care of you. Take care.

Interviewee: Bye.

**END OF TRANSCRIPT**

# EXHIBIT E



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Web [www.pacifictranscription.com.au](http://www.pacifictranscription.com.au)

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## **FILE DETAILS**

Audio Length: 19 minutes

Audio Quality:  High  Average  Low

Number of Facilitators: One

Number of Interviewees: One

Difficult Interviewee Accents:  Yes  No

Other Comments:

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## **START OF TRANSCRIPT**

Interviewee: LegalZoom. This is Alex. How can I help you?

Facilitator: Yes. I ordered a trademark on LegalZoom and it says that I have action required as my status, so I'm calling in to see what that is.

Interviewee: I can definitely help you out with that but, first, for verification purposes, can I have you provide me with your first and last name please?

Facilitator: Yes, it's Ryan Bethell. Last name is spelled B-E-T-H-E-L-L.

Interviewee: Okay, and then also your login email address for your LegalZoom account.

Facilitator: It's [ryanb@legalforcelaw.com](mailto:ryanb@legalforcelaw.com).

Interviewee: And also the name of your trademark.

Facilitator: Piggiebank.

[Unclear] words are denoted in square brackets and time stamps may be used to indicate their location within the audio.

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- Interviewee: Okay. Let's see here. I do see that we do have some questions regarding your goods and services description. I also see that you paid for two classes. What it looks like is that your description does indicate that you may fall under class 42 potentially. We were a little unclear. So let's see here. To give you some background information, the Trademark Office does separate different goods and services into different classifications. Each of those classes does require a filing fee, as you did pay for two. [Let me see here]. It does look like your description indicates that you may be something along the lines of software as a service. Is that appropriate?
- Facilitator: Not - yeah. I think we're a software and we're a service [laughs]. What would you recommend? I can give you the website that we have. It's just piggiebank.com.
- Interviewee: Okay.
- Facilitator: I want a little help selecting that. I wasn't sure which class to pick.
- Interviewee: Okay, I see. When it comes to software the Trademark Office does separate those into two different classes. The downloadable software that you can actually download to either a computer, a mobile phone, anything along those lines, that's going to fall under class nine. If it's something where you have to pay for access to your service - oh, I'm sorry, to your software - that is hosted online and they don't have to directly download something, that's considered software as a service, and that will fall under class 42.
- Facilitator: Okay. We do have a subscription model. It's like a CRM. Does that mean that I should file Piggiebank as a software as a service then?
- Interviewee: Let me see here. That's going to be up to you, essentially, and on what you determine your services fall under. All I can really tell you is your options on what we're seeing it may fall under, and then it would be up to you, ultimately, to decide what you do want to file it as. Given that we are not attorneys, I cannot give you any direct legal advice.

Facilitator: Okay. What - so then we've got - we do two things. We have a browser extension which you can download. Then we have the subscription service which - does that mean that I should do both?

Interviewee: Let me see what the extension may fall under. That is downloadable, correct, that browser extension you [were saying].

Facilitator: Yeah. It's just like a Google Chrome plugin. You download it and it gives you access to our software. I guess it makes it easier to navigate the non-downloadable portion, but I guess the core is non-downloadable.

Interviewee: Right, okay, I see. That could be - if that software is actually downloadable, then that would be under that class nine, and that would be the - see what I can find in regards to that. I do have a description that simply states computer - [I don't like that one]. All right. It simply states computer software for, and then you would specify the function of the program, so you could include that information regarding the fact that is a downloadable plugin.

Facilitator: Okay. That would be - so those would be separate though, those would be two classes, the downloadable part and the non-downloadable part.

Interviewee: Correct, yes.

Facilitator: Okay. Where's - I'm looking on the website. I can't find the description that I wrote. Can you point me in that direction?

Interviewee: When it comes to on the actual LegalZoom website for access to that I don't entirely know where that is on your end

Facilitator: Okay.

Interviewee: What I can tell you is I do have that description in front of me. What I have is...

Facilitator: Sure. Let's go through the description.

Interviewee: Okay. It's Piggiebank CRM helps small businesses stay organised. Piggiebank is a salesforce alternative. It's quick and easy to get set up

and easy to use, designed specifically for businesses using Enterprise Gmail.

Facilitator: Okay. Yeah, the Enterprise Gmail portion, is that - that's the Google Chrome plugin.

Interviewee: Okay, all right.

Facilitator: Does that description look okay?

Interviewee: As a description, all that is is describing what your service does. It doesn't really describe what it is, and that's what the Trademark Office is looking for, is for that actual description. What I have is, with this class nine, there's one that states computer software for, and then we can specify the function of that program. Then under class 42 I have software as a service, services featuring software for, and then we can use that language to specify the function of the program as well, if that sounds appropriate.

Facilitator: Okay. Then I should, essentially, modify this to fit into one of those templates.

Interviewee: I can do that right now, if you would like me to help you out doing that.

Facilitator: Sure.

Interviewee: I have that description for computer software for, and then specify the function of that program. How would you like that worded?

Facilitator: So...

[Over speaking]

Interviewee: [That's going to be] the downloadable portion.

Facilitator: The downloadable - what do you recommend?

Interviewee: For - when it comes to the description, typically, they're just looking for a basic description of the function. The examples they use is for use in database management, for use as a spreadsheet, for use - for word processing; just simple descriptions like that. If it is, for instance, a downloadable plugin for an internet browser, you could state that.

Facilitator: Okay. That sounds good...

[Over speaking]

Interviewee: ...describe.

Facilitator: That sounds good.

Interviewee: Okay. So far I have that it is computer software for use as an internet browser plugin. Then they're going to want you to also provide information regarding what it does.

Facilitator: Okay. I guess the browser plugin, essentially, connects it to our CRM and integrates with Gmail.

Interviewee: Okay.

Facilitator: I don't know. I guess I'm - what are you - based on what you see, let me, I guess, describe the service and then [laughs] you can tell me, I guess, what makes sense on this form. I can't see it. The - essentially, it's like an email aggregator and a customer relations management software. The extension - all it does - it's a downloadable - it's for UI that is ease of access and - it's a UI extension, so it syncs with your Gmail account and then causes everything that you email to get sent to - essentially, copied and pasted into the CRM. Maybe read back the - does that help?

Interviewee: It does. I'm just trying to figure out the best way to see here. Okay, so - can I have you describe that to me one more time so that I can use some of that language?

Facilitator: Sure. It's the - which piece? Just the Google Chrome extension, what it does?

Interviewee: Yeah, yeah.

Facilitator: Or the whole business? Okay.

Interviewee: You could give me all of it right now though. I'll...

[Over speaking]

Facilitator: Perfect. I guess because we're going to draft up two of these.

Interviewee: Yes, [exactly].

Facilitator: The - it's a customer relations management software. The Google Chrome extension is a downloadable software that gives - essentially, it's a UI interface that integrates with Google Chrome and syncs the Gmail accounts with the CRM software.

Interviewee: Okay. Using very basic language, what I have right now...

Facilitator: Yeah, better to keep it simple, right.

Interviewee: Yeah. Under class nine I have computer software for use as an internet browser plugin in connection with customer relations management software. Then, under class 42, I have software as a service, services featuring software for customer relations management.

Facilitator: Okay.

Interviewee: Does that sound...

Facilitator: Yeah. Do you think that sounds good?

Interviewee: It does at my end, but my only concern is I don't have details regarding - you did describe it - your services to me. I just want to make sure that it sounds good on your end.

Facilitator: Okay. I'll go with what you recommend.

Interviewee: Okay. Then when it comes to your - I have updated that. You are listed as filing what's called intent to use, so that does mean that the Trademark Office is going to ask you for your specimens in the future. That's going to be four to five months after your initial filing date. When they do ask you for those specimens it is going to be per class. They're going to look for you to provide them the information regarding that actual downloadable software. That could just be screenshots of your download page for that software itself. Then they're going to ask for information regarding that software as a service, which will also just be - honestly, what I'm seeing on your website may be sufficient when it comes to that software as a service.

Facilitator: A quick question. Right now the software portion that's, I guess, the non-downloadable part is ready now. Should I file one of them as in use and one of them as intent to use? Or is there a disadvantage to just filing both intent to use?

Interviewee: No. Actually, we can go ahead and do one and one. The way that it works is that when you file for intent to use - as I say, the Trademark Office will ask for that four to five months after that initial filing date. They also require a \$100 fee at the point of providing them that proof. If you have the proof for that class 42 for software as a service, that I'm seeing your website, that we could move forward with that one, providing that to them, which would mean that they'll just ask you for the class nine proof, and it'll just be the \$100 for the single class when they ask you for it.

Facilitator: Can you see the website?

Interviewee: Yes. I do have it...

[Over speaking]

Facilitator: Does that look like it would - that would work for proof of use?

Interviewee: Let me go ahead and take a double check here. Yeah. I'm seeing - yeah, absolutely, this would be...

Facilitator: Okay, that's perfect. Then let's do the - we'll do one that we're using now with the proof of use looks good, and then we'll do the other one, I guess, intent.

Interviewee: Okay, absolutely. When we're doing that - when you do file for use in commerce the Trademark Office asks for two dates from you. They're going to ask for your date of first use anywhere and your date of first use in commerce. That date of first use anywhere does need to come before the date of first use in commerce, and they both have to be current dates. They cannot be future dates. How would you like that listed?

Facilitator: What does use in commerce mean?

Interviewee: That pretty much means the first time you were putting something out in order to have it purchased.

Facilitator: Okay.

Interviewee: It could be a matter of - since it is out there and you are allowing people to get started, you are already providing it as a service.

Facilitator: Okay. We - a quick question. We were at, actually, TechCrunch a few months ago - is, I guess, where we did our soft launch, but we actually didn't have our first sale until later. Which would recommend that we use as a date of first use?

Interviewee: They're looking for information in relation to this actual name. They want you - just in case you have to provide proof - that you are, in fact, using this name before somebody else. They want a date for you to state that I was using it by this point. That's what is best to think about.

Facilitator: Okay. They would never like - they're not going to ask for an invoice or something to show for use in commerce. If we advertised it, that's good.

Interviewee: When it comes to the application process they won't ask for that. If it's anything to do with making sure you're protecting your name in relation to somebody else trying to use it I don't have direct information for that, so I don't know what they'd ask you for in terms of that. Before the actual application itself they're not going to ask you for that.

Facilitator: Okay. Well, thanks. Let's do the software as a service one then. Just to confirm, it's - we'll do that as in use, and then the other one is intent.

Interviewee: Oh yes.

Facilitator: All right. Thanks.

Interviewee: Then when it comes to those dates I do need to put those in for you before we can move forward.

Facilitator: Okay.

Interviewee: How would you like those listed?

Facilitator: [Sighs]. Can you - are you in front of the computer? I'm not. I'm sorry [laughs]. Could you Google when TechCrunch was? Actually, hold on. I can get it.

Interviewee: Okay.

Facilitator: Because that was our launch date. TechCrunch disrupt. It was 2017. We were 18 September of this year.

Interviewee: Okay. Is that your date of first use anywhere, or your date of first use in commerce, or both?

Facilitator: That's first in commerce. I think we started development internally in - let's call it 1 January of 2017.

Interviewee: Of '17, okay. All right. What I'm going to do is I'm going to be sending you an email that will contain both these goods and services descriptions that you're moving forward with. I am - I have updated your application so that we're moving forward with the website you provided as your proof for that class 42 description. Then we're doing intent to use for your class three description. That is everything that I need from you right now.

I will go ahead and make sure all of that is updated. Then I'm going to go out and move your order on through to our search team. They're going to take the next three to five business days to get you your search results. Those will be posted to your account. You'll get an email regarding that. Once you do receive that just give it a look over. If there's anything about your order you want to update or change, give us a call. We can help you out with that. If not, just let them know, as a reply, that you do want to move forward, and then we'll go ahead and prepare your application at that point.

Facilitator: All right. Thanks very much. Appreciate all the advice.

Interviewee: Thank you very much. Have a great day.

Facilitator: Bye.

Saying I'll go with what you recommend doesn't mean anything  
because asking the question what do you recommend...

**END OF TRANSCRIPT**



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Web [www.pacifictranscription.com.au](http://www.pacifictranscription.com.au)

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## **FILE DETAILS**

Audio Length: 12 minutes

Audio Quality:  High  Average  Low

Number of Facilitators: One

Number of Interviewees: One

Difficult Interviewee Accents:  Yes  No

Other Comments:

---

## **START OF TRANSCRIPT**

Facilitator: My name is Robert, how can I help you today?

Interviewee: Hey Robert, I have a note saying there was action required on my Trademark.

Facilitator: Okay, I'll just try to [get right at that], sir. Okay, said it was for your Trademark?

Interviewee: Correct.

Facilitator: Okay, if I can ask who am I speaking with today?

Interviewee: My name is Ryan Bethell.

Facilitator: [Unclear] Mr Bethel. I have two show that you put the order number of 50921513 in the system?

Interviewee: That's correct.

[Unclear] words are denoted in square brackets and time stamps may be used to indicate their location within the audio.

Distribution of this transcript requires client authority and is subject to the provisions of the Australian Privacy Principles.

Facilitator: Mr Bethell, can I also ask you what email address you use for your order?

Interviewee: RyanB@Legalforcelaw.com

Facilitator: Alright, thank you, sir. Alright, let me take some quick notes and then I can get access [unclear] and see if I can help you with this. [Pause] Okay, Trademark, get that open. [Pause] Alright, it looks like we did the [comprehensive] search for you and mailed that to you...

Interviewee: I see the - you mailed or emailed? I saw the email. Then I'm actually looking at search results right now.

Facilitator: Oh yeah, let me check on that. Let me check on that and make sure. It says it was mailed, so...

Interviewee: Okay, well I'm looking at an email version, that's fine.

Facilitator: Okay, so they meant - [they may have meant] email note to say [unclear]. So you did receive that then, okay. So have you had a chance to...

Interviewee: Yeah, I've gone through them briefly...

Facilitator: ...look over that...

Interviewee: I was looking for a little bit of direction. Looks like there's - there are nine different searches that are done and so what - how [were they significant]? Could you explain just a little bit to me about what they are and why they're [important]?

Facilitator: Well, these search - I mean it's just a more comprehensive search [unclear]. [I can't] It's - well, the main search is more - [I said it] - it search as much as the [comprehensive one] - it's more comprehensive so it just gives you more information.

Interviewee: Okay.

Facilitator: So basically it's meant to give you as much information that you - it can for the comprehensive, so it gives you more idea if there's any - could be any clash with your Trademark or if there could be any possibly clash or conflict.

- Interviewee: I guess my problem is, you definitely gave me a lot of information, perhaps too much because I'm looking at this...
- Facilitator: Oh, I see.
- Interviewee: ...and I just see there's a hundred and something pages of document and there's no direction [laughs] as to - it's [unclear]. It's just a blank page with - here's - there's a [blank] page with hundreds of different search results.
- Facilitator: Let me see - yeah and that's why it's comprehensive search. It's really comprehensive - there's just a lot of information and...
- Interviewee: So - I mean, I see, I went through them all sort of briefly - what - my goal here is I want to register a Trademark. So what should [really matter]?
- Facilitator: [Pause] Well, look I mean they all matter, like the government ones are the - I mean that's [prescribed] to, it's for government so that's [probably] the most part of this - there is some things that are done at state level aren't a real Trademark issue, but it's depending on what you want to do. You might come into conflict later on, so it's - I mean the government one's definitely an important one. That's depending on what you want to do...
- Interviewee: So when you say the government one - what are you - I don't - I see...
- Facilitator: Okay, well the federal [unclear] - federal search - the comprehensive includes the federal and also state search. So state search will bring up things that are state related that directly affect the Trademark on a national level.
- Interviewee: Okay.
- Facilitator: Some states might have a - because it might be a name that's in a state that's just like a business name or something that the state - it's already filed in state, so that might be...
- Interviewee: [Okay]...

Facilitator: ...if somebody was trying to do something nationwide, it might be going to different to states though that - it's just a real - I mean, depending on what you want to do and how...

Interviewee: So...

Facilitator: ...[unclear] you're doing, so...

Interviewee: So if I - if there's something that's in a - shows up on the state search, would that prevent me from going through - would that be a conflict just for the Trademark registration?

Facilitator: Well, it might be a conflict if you're going to do something in that state. If it's - like there was - we had one [example] there was a - let me think - I can't - there was a company - national company and there was a company that started in another state; I think it was Minnesota, so that when they went into that Minnesota they had to change their name. They couldn't use the name that that company in Minnesota already had. I can't remember if it was [Papa John's] or maybe it was...

Interviewee: Oh, okay, so...

Facilitator: ...something like that, but then - so something like that that might happen.

Interviewee: But that was [kind of a one-off].

Facilitator: But that's an example.

Interviewee: So but I could still - because there's - if there was one that looked like it's pretty spot-on like in the state of Alabama, I don't think we have any plan to go and target Alabama specifically...

Facilitator: Yeah, so that gives you some information...

Interviewee: ...but if there's not - if that doesn't pop up in the federal search, then I'm okay? Just for the purpose of...

Facilitator: Yeah, that should be okay...

Interviewee: ...[unclear].

Facilitator: ... yeah, it's up to you and what you're going to do with your Trademark in the future.

[Over speaking]

Interviewee: The one in Alabama, if it's not in the federal search, that wouldn't affect the ability for me to register, is that what I'm understanding? But it could ultimately affect my rights to use the mark down the road in that state?

Facilitator: Yeah, in that certain state or something, yes.

Interviewee: Okay, and I did - as I went through the federal thing - the federal one is the one I went through most closely and it - I was just wondering what weight is given to the - because I see a couple of things that are [unclear] - our Trademark is for Piggiebank and it's - but it's treated - it's like a software service - it's going to have a novel spelling. It's G-G-I-E instead of G-G-Y and I see some things that are like Piggiebank Management which is for - it's like a - books.

So is that going to be a problem? Would something like that pose a big risk to filing for a Piggiebank Trademark and software service?

Facilitator: Well, I mean we - I mean that's - I guess that's - it's more for you to decide. It's hard to speak for you. We try to base [an application] on what you have done and - but they could change and it's very - it's hard to say what they are going to do for sure, but...

Interviewee: I'm not asking for sure, I mean I imagine you guys have tens of thousands of Trademarks. So I'm asking in your experience, is something like - so the mark [unclear] [looking] at is Piggiebank Management. If you went to the federal search report [number 14] and I see this registration - the pending mark - it looks like it hasn't been registered - and I wonder would we be able to get a similar Trademark there because the names are similar, but we're a totally different service.

Facilitator: Okay, yeah, if it's a different class that would make a difference.

Interviewee: Okay.

Facilitator: But if it's a different class they wouldn't compare it at all, so that's...

Interviewee: Oh, oh so then I just need to...

Facilitator: ...[unclear].

Interviewee: That's actually - that's very helpful. So as I go through this then we're going to be in I think - I can't remember the number, but it was like non-downloadable software and - what's that 41, maybe 42 - it was in the 40s. But we wouldn't then - so when I go through the - the only ones I need to worry about then, are the ones in that class? That actually makes...

Facilitator: Yeah, that's correct.

Interviewee: Oh, perfect. That's...

[Over speaking]

Interviewee: ...[unclear] easier to go through. Alright, now all of a sudden I can just Control F and find the same class number. That actually makes it very helpful.

Facilitator: Yeah.

Interviewee: Okay, so again, I think that what I'll need to do is - do I just approve it online? So I'm going to go through them and now I'm going to - based on that, I'm just going to go through and look at all the class 42s and then we can decide if we're going to move forward from there.

Facilitator: Yeah, yeah then you call us and let's help you out to see if you [unclear] search or not, or if you want to update your application or [unclear], so.

Interviewee: Alright, well thanks. Thanks very much. I appreciate the advice.

Facilitator: Oh you're welcome Mr Bethell and is there anything else I can help you with? Do you have any questions?

Interviewee: No, I think that will be it for today. Thanks very much, appreciate it.

Facilitator: You're welcome Mr Bethell, thank you. Have a wonderful day and thanks for choosing LegalZoom.

**END OF TRANSCRIPT**



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# EXHIBIT F

## E-Signature(s) Request Form

TEAS will send any e-signature request directly back to you as the requestor, and then you must forward the resulting e-mail to the intended signatory. This is NOT automatic, and requires your additional action. With this approach, you will receive any possible "undeliverable" notice, and as such, immediately be aware when a problem exists with the signatory's e-mail that requires possible correction and re-sending. All "reply" communications will be directly between the signatory and the requestor. For more information, click [here](#).

**NOTE:** From the point of validation, you must get the Trademark/Service Mark Application, Principal Register signed, returned, and filed with the USPTO within **two (2) weeks**. To avoid having to re-create this form, if you do not think that the form will be signed within **two (2) weeks**, you should use the downloadable portable form to save the Trademark/Service Mark Application, Principal Register indefinitely, by clicking on the button at the bottom of the Validation Page.

**\*1. Enter your name:**

**\*2. Enter your e-mail address (single e-mail address only):**

Note: Your name, e-mail address, and that of recipient, will be used only in the case of transmission errors and to let the recipient know who sent the request. The information will not be used for any other purpose.

Send Email

Clear

# EXHIBIT G



The Law Society  
(<http://www.lawsociety.org.uk>)

# Legalzoom Legal Services Ltd

---

**Type:** Licensed body law practice (ABS)

**SRA ID:** 617803 | *SRA Regulated*

**Head office | Address:**

The Broadgate Tower,  
Third Floor,  
20 Primrose Street,  
London,  
EC2A 2RS,  
England

View in Google Maps (<http://maps.google.co.uk/maps?q=EC2A 2RS>)

## Facilities at this office



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## Areas of practice at this branch

Company and commercial 1 person

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## Areas of practice at this organisation

Company and commercial 1 person

---

## People, offices and structure

In this organisation	At this office
5 people	5 people
1 solicitor	1 solicitor
5 SRA-approved managers	5 SRA-approved managers
1 office	

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## Languages spoken at this branch

English

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## Languages spoken at this organisation

English

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### Where does this information come from?

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Home / Daily News / LegalZoom is acquiring a UK law firm

BUSINESS OF LAW

## LegalZoom is acquiring a UK law firm

BY DEBRA CASSENS WEISS ([HTTP://WWW.ABAJOURNAL.COM/AUTHORS/4/](http://www.abajournal.com/authors/4/))

POSTED DECEMBER 8, 2015, 10:52 AM CST



LegalZoom has already been approved in the United Kingdom as an alternative business structure. But its expansion plans don't end there.

The online legal document company announced plans on Thursday to acquire a U.K. law firm, Beaumont Legal, report *Legal Futures* (<http://www.legalfutures.co.uk/latest-news/legalzoom-makes-its-move-with-beaumont-legal-acquisition>), the *Law Society Gazette* (<http://www.lawgazette.co.uk/news/legalzoom-to-make-first-uk-acquisition/5052608.fullarticle>), the *Los Angeles Business*

*Journal* (<http://labusinessjournal.com/news/2015/dec/07/legalzoom-acquires-british-law-firm-international-/>) and the *Yorkshire Post* (<http://www.yorkshirepost.co.uk/business/business-news/beaumont-legal-snapped-up-by-us-legal-brand-1-7610886>). A press release is here.

(<http://www.businesswire.com/news/home/20151207005117/en/LegalZoom-UK-Acquire-Law-Firm>)

LegalZoom chief executive Craig Holt said the plan is to build “a unique, next generation law firm” that is a blend of technology, lawyers and other expertise. Beaumont Legal is “an important piece of that jigsaw,” he said in the press release.

Beaumont Legal, known for its conveyancing practice, currently has more than 150 employees. Managing partner Nick Masheder plans to hire additional “forward-thinking, innovative individuals who want to be part of something truly special.”

The plan is subject to regulatory approval. The acquisition will be funded by private equity, according to the Law Society Gazette.

### **Related articles:**

#### **ABA Journal**

([http://www.abajournal.com/magazine/article/does\\_the\\_uk\\_know\\_something\\_we\\_dont\\_about\\_alternative\\_business\\_structures](http://www.abajournal.com/magazine/article/does_the_uk_know_something_we_dont_about_alternative_business_structures)): “Does the UK know something we don’t about alternative business structures?”

#### **ABAJournal.com**

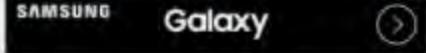
([http://www.abajournal.com/news/article/legalzoom\\_gets\\_ok\\_to\\_operate\\_in\\_uk\\_as\\_alternative\\_business\\_structure](http://www.abajournal.com/news/article/legalzoom_gets_ok_to_operate_in_uk_as_alternative_business_structure)): “LegalZoom gets OK to operate in UK”



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Overview

Number of Acquisitions **1**      Number of Investments **1**



**LegalZoom**

LegalZoom is a trusted technology platform giving access to professional legal advice so people can protect what matters most.

Glendale, California, United States

Categories: [Consulting, Legal, Professional Services](#)  
 Founded Date: Dec 1, 1999  
 Founders: [Brian Lee](#), [Brian Liu](#), [Eddie Hartman](#)  
 Operating Status: Active  
 Last Funding Type: [Venture - Series Unknown](#)  
 Number of Employees: 501-1000

Company Type: For Profit

Website: [www.legalzoom.com](http://www.legalzoom.com)  
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Funding Rounds

Number of Funding Rounds **4**      Total Funding Amount **\$311,000,000**

Announced Date	Transaction Name	Number of Investors	Money Raised	Lead Investors
Nov 10, 2014	<a href="#">Funding Round - ...</a>	1	--	--
Jan 7, 2014	<a href="#">Secondary Marke...</a>	1	\$200,000,000	--
Jul 24, 2011	<a href="#">Series B - LegalZ...</a>	2	\$66,000,000	--
Mar 6, 2007	<a href="#">Series A - LegalZ...</a>	1	\$45,000,000	<a href="#">Polaris Partners</a>

Customers have requested to speak with an attorney from our network over 450,000 times



*"Instead of expensive meetings at a law office, LegalZoom's website and a few helpful phone calls had me on my way to a trademark approval!"*

*Jeremy Hudson, Hudson Durable Goods*



# EXHIBIT H

UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE DIRECTOR OF THE  
UNITED STATES PATENT AND TRADEMARK OFFICE

In the Matter of	)	
	)	
Matthew H. Swyers,	)	Proceeding No. D2016-20
	)	
Respondent	)	
_____	)	

**FINAL ORDER**

Pursuant to 37 C.F.R. § 11.27(b), the Director of the United States Patent and Trademark Office (“USPTO” or “Office”) received for review and approval from the Director of the Office of Enrollment and Discipline (“OED Director”) an Affidavit For Consent Exclusion pursuant to 37 C.F.R. § 11.27, executed by Matthew H. Swyers (“Respondent”) on December 20, 2016. Respondent submitted the twelve-page Affidavit For Consent Exclusion to the USPTO for the purpose of being excluded on consent pursuant to 37 C.F.R. § 11.27.

For the reasons set forth herein, Respondent’s Affidavit For Consent Exclusion shall be approved, and Respondent shall be excluded on consent from practice before the Office in trademark and non-patent matters commencing on the date of this Final Order.

**Jurisdiction**

Respondent, of Vienna, Virginia, is an attorney licensed to practice law in the Commonwealth of Virginia and the District of Columbia and has practiced before the USPTO in trademark matters. As such, he is subject to the USPTO Code of Professional

Responsibility, which is set forth at 37 C.F.R. § 10.20 *et seq.*, and the USPTO Rules of Professional Conduct, which are set forth at 37 C.F.R. §§ 11.101 through 11.901.<sup>1</sup>

Pursuant to 35 U.S.C. §§ 2(b)(2)(D) and 32 and 37 C.F.R. § 11.27, the USPTO Director has the authority to approve Respondent's Affidavit for Consent Exclusion and to exclude Respondent on consent from the practice of trademark and non-patent matters before the Office.

### **Allegations of the Disciplinary Complaint**

A disciplinary complaint is pending against Respondent (Proceeding No. 2016-20) which alleges that:

- a. Respondent, an experienced trademark lawyer and former USPTO Trademark Examining Attorney, established The Trademark Company, PLLC, and through that business systematically permitted non-attorneys to practice trademark law for him with little or no supervision.
- b. Respondent, the sole attorney at the company, did not personally review or sign thousands of trademark applications and related documents (including statements of use, § 2(f) declarations, and responses to Office actions) prepared by his non-lawyer employees and filed with the USPTO, in violation of USPTO signature and certification rules and despite assurances on the company website that trademark applicants would be represented by a specialized attorney.
- c. As a result of Respondent's failure to supervise his employees, multiple fraudulent or digitally manipulated specimens of use were filed with the Office, which potentially jeopardized the trademark applications of his clients.

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<sup>1</sup> The USPTO Code of Professional Responsibility applies to conduct prior to May 3, 2013, and the USPTO Rules of Professional Conduct apply to conduct on or after May 3, 2013.

- d. Respondent failed to deposit client funds paid in advance into a client trust account and improperly split legal fees with his non-practitioner employees.
- e. Respondent failed to respond to lawful requests for information or cooperate with the investigation conducted by the Office of Enrollment and Discipline.

### **Respondent's Affidavit For Consent Exclusion**

Respondent acknowledges in his December 20, 2016 Affidavit For Consent Exclusion that:

1. His consent is freely and voluntarily rendered, and he is not being subjected to coercion or duress.

2. He is aware that the disciplinary complaint filed against him (Proceeding No. D2016-20) alleges that he violated the following Disciplinary Rules of the USPTO Code of Professional Responsibility and/or the USPTO Rules of Professional Conduct:

- a. 37 C.F.R. § 10.23(a) (engaging in disreputable or gross misconduct by, *inter alia*: directing or allowing his employees to prepare, sign, and file trademark applications, responses to Office Actions, and other trademark documents; directing or allowing his employees to provide legal advice and guidance to trademark applicants; and/or directing or allowing his employees to communicate with his clients about trademark search reports and opinions, without his involvement or supervision; engaging in disreputable or gross misconduct by, *inter alia*: failing to comply with the USPTO's electronic signature rules by not personally electronically signing trademark applications and trademark documents filed with the USPTO and, instead, directing or allowing his employees to sign or forge his electronic signature to the documents, which resulted in the validity of registered trademarks being jeopardized; engaging in disreputable or gross misconduct by, *inter alia*: directing or allowing his employees to sign or forge his name to § 2(f) declarations and file the § 2(f) declarations with the Office, when (i) he knew that the

Trademark Examining Attorneys would rely on the declarations when examining trademark applications and issuing registrations and when he knew or reasonably should have known that the validity of an applicants' applications and registrations were jeopardized by the false and/or forged declarations; and/or (ii) he knew or should have known his employees did not have adequate knowledge to aver, "The mark has become distinctive of the goods/services through the applicant's substantially exclusive and continuous use in commerce that the U.S. Congress may lawfully regulate for at least the five years immediately before the date of this statement;" engaging in disreputable or gross misconduct by, *inter alia*: (i) failing to adequately supervise his employees or adequately review their work, thus permitting them to create false or fraudulent specimens and/or digitally altered images of marks that did not depict the actual mark as used in commerce and file these specimens with the Office, and as a result, in some cases, the USPTO issued trademark registrations based on the false or fraudulent specimens or digitally altered marks, putting the validity of the resulting trademarks in jeopardy, (ii) failing to inform his clients that their trademark registrations or applications were potentially invalid and/or take timely and effective remedial action on their behalf and/or offer or provide restitution to them, and/or (iii) failing to inform the USPTO of the potentially invalid applications and/or registrations that resulted from the filing of false or fraudulent specimens or digitally altered marks; engaging in disreputable or gross misconduct by, *inter alia*: (i) not informing clients who purchased trademark legal services from The Trademark Company that their applications and other trademark documents were not prepared or reviewed by an attorney prior to being filed with the Office; and/or (ii) collecting fees from clients for trademark legal services that were supposed to be performed by an attorney when their applications and other trademark documents were not prepared or reviewed by an attorney prior to being filed with the Office);

- b. 37 C.F.R. § 10.23(b)(4) (engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation by, *inter alia*: not informing clients who purchased trademark legal services from The Trademark Company that their applications and other trademark documents were not prepared or reviewed

by an attorney prior to being filed with the Office; engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation by, *inter alia*: (i) not personally electronically signing trademark applications and trademark documents filed with the USPTO and, instead, directing or allowing his employees to sign or forge his electronic signature to the documents, thereby misleading the USPTO, his clients, and the public into believing that Respondent had actually signed the trademark application or trademark document; and/or (ii) not affirmatively informing the Trademark Examining Attorney that the actual signatory, the employee, was not identified on the document; engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation by, *inter alia*: directing or allowing his employees to sign or forge his name to § 2(f) declarations and file the § 2(f) declarations with the Office, when (i) he knew that the Trademark Examining Attorneys would rely on the declarations when examining trademark applications and issuing registrations, and/or (ii) he knew or should have known his employees did not have adequate knowledge to aver, "The mark has become distinctive of the goods/services through the applicant's substantially exclusive and continuous use in commerce that the U.S. Congress may lawfully regulate for at least the five years immediately before the date of this statement;" engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation by, *inter alia*: (i) failing to adequately supervise his employees or adequately review their work, thus permitting them to create false or fraudulent specimens and/or digitally altered images of marks that did not depict the actual mark as used in commerce and file these specimens with the Office, and as a result, in some cases, the USPTO issued trademark registrations based on the false or fraudulent specimens or digitally altered marks, putting the validity of the resulting trademarks in jeopardy, (ii) failing to inform his clients that their trademark registrations or applications were potentially invalid and/or take timely and effective remedial action on their behalf and/or offer or provide restitution to them, and/or (iii) failing to inform the USPTO of the potentially invalid applications and/or registrations that resulted from the filing of false or fraudulent specimens or digitally altered marks; engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation by, *inter alia*: (i) not informing

clients who purchased trademark legal services from The Trademark Company that their applications and other trademark documents were not prepared or reviewed by an attorney prior to being filed with the Office; and/or (ii) collecting fees from clients for trademark legal services that were supposed to be performed by an attorney when their applications and other trademark documents were not prepared or reviewed by an attorney prior to being filed with the Office);

- c. 37 C.F.R. § 10.23(b)(5) (engaging in conduct prejudicial to the administration of justice by, *inter alia*: (i) directing or allowing his employees to prepare, sign, and file trademark applications, responses to Office Actions, and other trademark documents; directing or allowing his employees to provide legal advice and guidance to trademark applicants; and/or directing or allowing his employees to communicate with his clients about trademark search reports and opinions, without his involvement or supervision; and/or (ii) not reviewing trademark applications and other trademark documents (*e.g.*, responses to Office Actions) prepared and filed by his employees before they were filed with the Office; engaging in conduct prejudicial to the administration of justice by, *inter alia*: (i) failing to comply with the USPTO's electronic signature rules by not personally electronically signing trademark applications and trademark documents filed with the USPTO and, instead, directing or allowing his employees to sign or forge his electronic signature to the documents, which resulted in the validity of registered trademarks being jeopardized and/or (ii) directing or allowing his employees to sign or forge his electronic signature to trademark applications and other trademark documents knowing that the actual signatory, the employee, was not identified on the documents contrary to Respondent's certifications under § 11.18; engaging in conduct prejudicial to the administration of justice by, *inter alia*: directing or allowing his employees to sign or forge his name to § 2(f) declarations and file the § 2(f) declarations with the Office, when (i) he knew that the Trademark Examining Attorneys would rely on the declarations when examining trademark applications and issuing registrations; and/or (ii) he knew or should have known his employees did not have adequate knowledge to aver, "The mark has become

distinctive of the goods/services through the applicant's substantially exclusive and continuous use in commerce that the U.S. Congress may lawfully regulate for at least the five years immediately before the date of this statement;" and/or (iii) he knew that (a) the actual signatory, the employee, was not identified on the document and (b) the actual signatory, the employee, did not have the knowledge to support the factual contentions found in the declaration; engaging in conduct prejudicial to the administration of justice by, *inter alia*: (i) failing to adequately supervise his employees or adequately review their work, thus permitting them to create false or fraudulent specimens and/or digitally altered images of marks that did not depict the actual mark as used in commerce and file these specimens with the Office, and as a result, in some cases, the USPTO issued trademark registrations based on the false or fraudulent specimens or digitally altered marks, putting the validity of the resulting trademarks in jeopardy, and/or (ii) failing to inform the USPTO of the potentially invalid applications and/or registrations that resulted from the filing of false or fraudulent specimens or digitally altered mark);

- d. 37 C.F.R. § 10.23(b)(6) (engaging in any other conduct that adversely reflects on the practitioner's fitness to practice before the Office, by engaging in the conduct referenced in Count I of the Complaint to the extent that his conduct does not otherwise violate a provision of the USPTO Code of Professional Responsibility; engaging in any other conduct that adversely reflects on the practitioner's fitness to practice before the Office, by engaging in the conduct referenced in Count II of the Complaint to the extent that his conduct does not otherwise violate a provision of the USPTO Code of Professional Responsibility; engaging in any other conduct that adversely reflects on the practitioner's fitness to practice before the Office, by engaging in the conduct referenced in Count III of the Complaint to the extent that his conduct does not otherwise violate a provision of the USPTO Code of Professional Responsibility; any other conduct that adversely reflects on the practitioner's fitness to practice before the Office, by engaging in the conduct referenced in Count IV of the Complaint to the extent that his conduct does not otherwise violate a provision of the USPTO Code of Professional Responsibility);

- e. 37 C.F.R. §§ 10.23(a) and (b) via 10.23(c)(2)(ii) (knowingly giving false or misleading information or knowingly participating in a material way in giving false or misleading information to the USPTO or any employee of the USPTO by, *inter alia*: directing or allowing his employees to sign or forge his name to § 2(f) declarations and file the § 2(f) declarations with the Office, when (i) he knew that the Trademark Examining Attorneys would rely on the declarations when examining trademark applications and issuing registrations, and/or (ii) he knew or should have known his employees did not have adequate knowledge to aver, "The mark has become distinctive of the goods/services through the applicant's substantially exclusive and continuous use in commerce that the U.S. Congress may lawfully regulate for at least the five years immediately before the date of this statement;" and/or (iii) he knew that (a) the actual signatory, the employee, was not identified on the document and (b) the actual signatory, the employee, did not have the knowledge to support the factual contentions found in the declaration);
  
- f. 37 C.F.R. §§ 10.23(a) and (b) via 10.23(c)(15) (violating the certifications made to the USPTO under 37 C.F.R. § 11.18 by, *inter alia*: directing or allowing his employees to sign or forge his electronic signature to trademark applications and other trademark documents knowing that the actual signatory, the employee, was not identified on the documents; violating the certifications made to the USPTO under 37 C.F.R. § 11.18 by, *inter alia*: directing or allowing his employees to sign or forge his name to § 2(f) declarations and file the § 2(f) declarations with the Office, knowing that (i) the actual signatory, the employee, was not identified on the document and (ii) the actual signatory, the employee, did not have the knowledge to support the factual contentions found in the declaration; violating the certifications made to the USPTO under 37 C.F.R. § 11.18 by, *inter alia*, failing to adequately supervise his employees or adequately review their work, thus permitting them to create false or fraudulent specimens and/or digitally altered images of marks that did not depict the actual mark as used in commerce and file these specimens with the Office);
  
- g. 37 C.F.R. § 10.31(a) (deceiving or misleading prospective applicants or other persons having immediate or prospective

business before the Office by word, circular, letter, or advertising with respect to prospective business before the Office by, *inter alia*: advertising on The Trademark Company's website that trademark applications would be prepared by an attorney when Respondent knew that trademark applications were not prepared or reviewed by an attorney prior to being filed with the USPTO; engaging in any other conduct that adversely reflects on the practitioner's fitness to practice before the Office, by engaging in the conduct referenced in Count V of the Complaint to the extent that his conduct does not otherwise violate a provision of the USPTO Code of Professional Responsibility);

- h. 37 C.F.R. § 10.47(a) and (c) (aiding a non-practitioner in the unauthorized practice of law before the Office by, *inter alia*: (i) directing or allowing his employees to prepare, sign, and file trademark applications, responses to Office Actions, and other trademark documents; directing or allowing his employees to provide legal advice and guidance to trademark applicants; and/or directing or allowing his employees to communicate with his clients about trademark search reports and opinions, without his involvement or supervision; and/or (ii) not reviewing trademark applications and other trademark documents (*e.g.*, responses to Office Actions) prepared and filed by his employees before they were filed with the Office);
- i. 37 C.F.R. § 10.48 (sharing legal fees with a non-practitioner by paying employees non-discretionary monthly bonuses tied to the proceeds generated by the trademark legal services provided to applicants with whom they interacted);
- j. 37 C.F.R. § 10.77(b) (handling a legal matter without preparation adequate under the circumstances by, *inter alia*: failing to comply with the USPTO's electronic signature rules by not personally electronically signing trademark applications and trademark documents filed with the USPTO and, instead, directing or allowing his employees to sign or forge his electronic signature to the documents, which resulted in the validity of registered trademarks being jeopardized);

- k. 37 C.F.R. § 10.77(c) (neglecting client matters by, *inter alia*: not reviewing trademark applications, responses to Office Actions, and other trademark documents prepared and filed by his employees before they were filed with the Office; neglecting client matters by, *inter alia*: (i) failing to adequately supervise his employees or adequately review their work, thus permitting them to create false or fraudulent specimens and/or digitally altered images of marks that did not depict the actual mark as used in commerce and file these specimens with the Office, and as a result, in some cases, the USPTO issued trademark registrations based on the false or fraudulent specimens or digitally altered marks, putting the validity of the resulting trademarks in jeopardy, and/or (ii) failing to inform his clients that their trademark registrations or applications were potentially invalid and/or take timely and effective remedial action on their behalf and/or offer or provide restitution to them);
- l. 37 C.F.R. § 10.84(a)(1) (intentionally failing to seek the lawful objectives of a client through reasonably available means permitted by law by, *inter alia*: intentionally failing to inform his clients that their trademark registrations or applications were potentially invalid and/or take timely and effective remedial action on their behalf and/or offer or provide restitution to them);
- m. 37 C.F.R. § 10.84(a)(3) (intentionally prejudicing or damaging the client during the course of a professional relationship by, *inter alia*: intentionally failing to inform his clients that their trademark registrations or applications were potentially invalid and/or take timely and effective remedial action on their behalf and/or offer or provide restitution to them);
- n. 37 C.F.R. § 10.89(c)(6) (intentionally or habitually violating any provision of the USPTO Code of Professional Responsibility while appearing in a professional capacity before a tribunal by, *inter alia*: (i) directing or allowing his employees to prepare, sign, and file trademark applications, responses to Office Actions, and other trademark documents; directing or allowing his employees to provide legal advice and guidance to trademark applicants; and/or directing or allowing his employees to communicate with his clients about trademark search reports and opinions, without his

involvement or supervision; and/or (ii) not reviewing trademark applications, responses to Office Actions, and other trademark documents prepared and filed by his employees before they were filed with the Office; intentionally or habitually violating any provision of the USPTO Code of Professional Responsibility while appearing in a professional capacity before a tribunal by, *inter alia*: failing to comply with the USPTO's electronic signature rules by not personally electronically signing trademark applications and trademark documents filed with the USPTO and, instead, directing or allowing his employees to sign or forge his electronic signature to the documents, which resulted in the validity of registered trademarks being jeopardized; intentionally or habitually violating any provision of the USPTO Code of Professional Responsibility while appearing in a professional capacity before a tribunal by, *inter alia*: directing or allowing his employees to sign or forge his name to § 2(f) declarations and file the § 2(f) declarations with the Office, when (i) he knew that the Trademark Examining Attorneys would rely on the declarations when examining trademark applications and issuing registrations, and/or (ii) he knew or should have known his employees did not have adequate knowledge to aver, "The mark has become distinctive of the goods/services through the applicant's substantially exclusive and continuous use in commerce that the U.S. Congress may lawfully regulate for at least the five years immediately before the date of this statement;"; intentionally or habitually violating any provision of the USPTO Code of Professional Responsibility while appearing in a professional capacity before a tribunal by, *inter alia*: (i) failing to adequately supervise his employees or adequately review their work, thus permitting them to create false or fraudulent specimens and/or digitally altered images of marks that did not depict the actual mark as used in commerce and file these specimens with the Office, and as a result, in some cases, the USPTO issued trademark registrations based on the false or fraudulent specimens or digitally altered marks, putting the validity of the resulting trademarks in jeopardy, and/or (ii) failing to inform the USPTO of the potentially invalid applications and/or registrations that resulted from the filing of false or fraudulent specimens or digitally altered marks);

- o. 37 C.F.R. § 10.112(a) (failing to deposit legal fees paid in advance into a separate client trust account by depositing them instead into The Trademark Company's operating account);
  
- p. 37 C.F.R. § 11.101 (failing to provide competent representation by, *inter alia*: not reviewing trademark applications, responses to Office Actions, and other trademark documents prepared and filed by his employees before they were filed with the Office; failing to provide competent representation by, *inter alia*: failing to comply with the USPTO's electronic signature rules by not personally electronically signing trademark applications and trademark documents filed with the USPTO and, instead, directing or allowing his employees to sign or forge his electronic signature to the documents, which resulted in the validity of registered trademarks being jeopardized; failing to provide competent representation by, *inter alia*: directing or allowing his employees to sign or forge his name to § 2(f) declarations and file the § 2(f) declarations with the Office, when (i) he knew that the Trademark Examining Attorneys would rely on the declarations when examining trademark applications and issuing registrations and when he knew or reasonably should have known that the validity of the applicants' applications and registrations were jeopardized by the false declarations; failing to provide competent representation by, *inter alia*: (i) failing to adequately supervise his employees or adequately review their work, thus permitting them to create false or fraudulent specimens and/or digitally altered images of marks that did not depict the actual mark as used in commerce and file these specimens with the Office, and as a result, in some cases, the USPTO issued trademark registrations based on the false or fraudulent specimens or digitally altered marks, putting the validity of the resulting trademarks in jeopardy, and/or (ii) failing to inform his clients that their trademark registrations or applications were potentially invalid and/or take timely and effective remedial action on their behalf and/or offer or provide restitution to them);
  
- q. 37 C.F.R. § 11.104(a) (failing to keep his client reasonably informed by, *inter alia*: (i) not informing Ms. Teague of the Office Action received on her behalf in U.S. Trademark

Application No. 86/287,301 and by not informing her that he had filed substitute specimens without confirming with her whether the substitute specimens depicted her mark as used in commerce, and/or (ii) failing to inform his clients that their trademark registrations or applications were potentially invalid and/or take timely and effective remedial action on their behalf and/or offer or provide restitution to them);

- r. 37 C.F.R. § 11.115(a) (failing to hold property of a client or third person that is in the lawyer's possession in connection with a representation separate from the lawyer's own property, by depositing fees paid in advance by clients for trademark legal services and costs into his operating account);
- s. 37 C.F.R. § 11.115(c) (failing to deposit into a client trust account legal fees and expenses that have been paid in advance, to be withdrawn by the practitioner only as fees are earned or expenses incurred, by depositing fees paid in advance by clients for trademark legal services and costs into his operating account);
- t. 37 C.F.R. § 11.303(a)(1) (knowingly making a false statement of fact to a tribunal or failing to correct a false statement of material fact previously made to the tribunal by the practitioner by, *inter alia*: failing to inform the USPTO of the potentially invalid applications and/or registrations that resulted from the filing of false or fraudulent specimens or digitally altered marks);
- u. 37 C.F.R. § 11.303(d) (failing, in an *ex parte* proceeding, to inform the tribunal of all material facts known to the practitioner that will enable the tribunal to make an informed decision, even if the facts are adverse by, *inter alia*: directing or allowing his employees to sign or forge his name to § 2(f) declarations and file the § 2(f) declarations with the Office, when (i) he knew that the Trademark Examining Attorneys would rely on the declarations when examining trademark applications and issuing registrations and/or (ii) he knew or should have known his employees did not have adequate knowledge to aver, "The mark has become distinctive of the goods/services through the applicant's substantially exclusive and continuous use in commerce that the U.S. Congress may lawfully regulate for at least the five years

immediately before the date of this statement;"; failing, in an *ex parte* proceeding, to inform the tribunal of all material facts known to the practitioner that will enable the tribunal to make an informed decision, even if the facts are adverse, by, *inter alia*, failing to inform the USPTO of the potentially invalid applications and/or registrations that resulted from the filing of false or fraudulent specimens or digitally altered marks);

- v. 37 C.F.R. § 11.503(a) (failing to make reasonable efforts to ensure that The Trademark Company had in effect measures giving reasonable assurance that its employees' conduct was compatible with Respondent's professional obligations, as is required by him as a partner or a person of comparable managerial authority of The Trademark Company by, *inter alia*: failing to adequately supervise his employees or adequately review their work, thus permitting them to create false or fraudulent specimens and/or digitally altered images of marks that did not depict the actual mark as used in commerce and file these specimens with the Office, and as a result, in some cases, the USPTO issued trademark registrations based on the false or fraudulent specimens or digitally altered marks, putting the validity of the resulting trademarks in jeopardy);
- w. 37 C.F.R. § 11.503(b) (failing to make reasonable efforts to ensure that the conduct of The Trademark Company employees over whom he had direct supervisory authority was compatible with Respondent's professional obligations by, *inter alia*: failing to adequately supervise his employees or adequately review their work, thus permitting them to create false or fraudulent specimens and/or digitally altered images of marks that did not depict the actual mark as used in commerce and file these specimens with the Office, and as a result, in some cases, the USPTO issued trademark registrations based on the false or fraudulent specimens or digitally altered marks, putting the validity of the resulting trademarks in jeopardy);
- x. 37 C.F.R. § 11.503(c) (ordering or ratifying the conduct of the employees of The Trademark Company which would have been a violation of the USPTO Rules of Professional Conduct had it been committed by a practitioner, and/or failing to take remedial measures once he learned of the conduct by, *inter*

*alia*: (i) failing to adequately supervise his employees or adequately review their work, thus permitting them to create false or fraudulent specimens and/or digitally altered images of marks that did not depict the actual mark as used in commerce and file these specimens with the Office, and as a result, in some cases, the USPTO issued trademark registrations based on the false or fraudulent specimens or digitally altered marks, putting the validity of the resulting trademarks in jeopardy, (ii) failing to inform his clients that their trademark registrations or applications were potentially invalid and/or take timely and effective remedial action on their behalf and/or offer or provide restitution to them, and/or (iii) failing to inform the USPTO of the potentially invalid applications and/or registrations that resulted from the filing of false or fraudulent specimens or digitally altered marks);

- y. 37 C.F.R. § 11.504(a) (sharing legal fees with a non-practitioner by paying employees non-discretionary monthly bonuses tied to the proceeds generated by the trademark legal services provided to applicants with whom they interacted);
- z. 37 C.F.R. § 11.505 (assisting other persons in the unauthorized practice of law before the USPTO by, *inter alia*: (i) directing or allowing his employees to prepare, sign, and file trademark applications, responses to Office Actions, and other trademark documents; directing or allowing his employees to provide legal advice and guidance to trademark applicants; and/or directing or allowing his employees to communicate with his clients about trademark search reports and opinions, without his involvement or supervision; and/or (ii) not reviewing trademark applications and other trademark documents (*e.g.*, responses to Office Actions) prepared and filed by his employees before they were filed with the Office);
- aa. 37 C.F.R. § 11.701 (making false or misleading communications about the practitioner or the practitioner's services by, *inter alia*: advertising on The Trademark Company's website that trademark applications would be prepared by an attorney when Respondent knew that trademark applications were not prepared or reviewed by an attorney prior to being filed with the USPTO);

- bb. 37 C.F.R. §11.801(b) (failing to respond to lawful requests for information and failing to cooperate with OED by *inter alia*: (i) telling a witness not to talk to OED; (ii) falsely telling potential witnesses that talking to OED could affect their trademark rights; (iii) withholding the names of former employees for months; and/or (iv) not providing OED with the documents it sought (invoices, employment agreements, correspondence about § 2(f) declarations, and/or a privilege log));
- cc. 37 C.F.R. § 11.804(c) (engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation by, *inter alia*: not informing clients who purchased trademark legal services from The Trademark Company that their applications and other trademark documents were not prepared or reviewed by an attorney prior to being filed with the Office; engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation by, *inter alia*: (i) not personally electronically signing trademark applications and trademark documents filed with the USPTO and, instead, directing or allowing his employees to sign or forge his electronic signature to the documents, thereby misleading the USPTO, his clients, and the public into believing that Respondent had actually signed the trademark application or trademark document; and/or (ii) not affirmatively informing the Trademark Examining Attorney that the actual signatory, the employee, was not identified on the document; engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation by, *inter alia*: directing or allowing his employees to sign or forge his name to § 2(f) declarations and file the § 2(f) declarations with the Office, when (i) he knew that the Trademark Examining Attorneys would rely on the declarations when examining trademark applications and issuing registrations, and/or (ii) he knew or should have known his employees did not have adequate knowledge to aver, "The mark has become distinctive of the goods/services through the applicant's substantially exclusive and continuous use in commerce that the U.S. Congress may lawfully regulate for at least the five years immediately before the date of this statement;" engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation, by, *inter alia*: (i) failing to adequately supervise his employees or adequately review their work, thus permitting them to create false or fraudulent specimens and/or digitally altered images

of marks that did not depict the actual mark as used in commerce and file these specimens with the Office, and as a result, in some cases, the USPTO issued trademark registrations based on the false or fraudulent specimens or digitally altered marks, putting the validity of the resulting trademarks in jeopardy, (ii) failing to inform his clients that their trademark registrations or applications were potentially invalid and/or take timely and effective remedial action on their behalf and/or offer or provide restitution to them, and/or (iii) failing to inform the USPTO of the potentially invalid applications and/or registrations that resulted from the filing of false or fraudulent specimens or digitally altered marks; engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation by, *inter alia*: (i) not informing clients who purchased trademark legal services from The Trademark Company that their applications and other trademark documents were not prepared or reviewed by an attorney prior to being filed with the Office; and/or (ii) collecting fees from clients for trademark legal services that were supposed to be performed by an attorney when their applications and other trademark documents were not prepared or reviewed by an attorney prior to being filed with the Office; engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation by, *inter alia*, falsely telling potential witnesses that talking to OED could affect their trademark rights);

- dd. 37 C.F.R. § 11.804(d) (engaging in conduct prejudicial to the administration of justice by, *inter alia*: (i) directing or allowing his employees to prepare, sign, and file trademark applications, responses to Office Actions, and other trademark documents; directing or allowing his employees to provide legal advice and guidance to trademark applicants; and/or directing or allowing his employees to communicate with his clients about trademark search reports and opinions, without his involvement or supervision; and/or (ii) not reviewing trademark applications and other trademark documents (*e.g.*, responses to Office Actions) prepared and filed by his employees before they were filed with the Office; engaging in conduct prejudicial to the administration of justice by, *inter alia*: (i) failing to comply with the USPTO's electronic signature rules by not personally electronically signing trademark applications and trademark documents

filed with the USPTO and, instead, directing or allowing his employees to sign or forge his electronic signature to the documents, which resulted in the validity of registered trademarks being jeopardized and/or (ii) directing or allowing his employees to sign or forge his electronic signature to trademark applications and other trademark documents knowing that the actual signatory, the employee, was not identified on the documents contrary to Respondent's certifications under § 11.18; engaging in conduct that is prejudicial to the administration of justice by, *inter alia*: directing or allowing his employees to sign or forge his name to § 2(f) declarations and file the § 2(f) declarations with the Office, when (i) he knew that the Trademark Examining Attorneys would rely on the declarations when examining trademark applications and issuing registrations, and/or (ii) he knew or should have known his employees did not have adequate knowledge to aver, "The mark has become distinctive of the goods/services through the applicant's substantially exclusive and continuous use in commerce that the U.S. Congress may lawfully regulate for at least the five years immediately before the date of this statement;" and/or (iii) he knew that (a) the actual signatory, the employee, was not identified on the document and (b) the actual signatory, the employee, did not have the knowledge to support the factual contentions found in the declaration; engaging in conduct that is prejudicial to the administration of justice by, *inter alia*: (i) failing to adequately supervise his employees or adequately review their work, thus permitting them to create false or fraudulent specimens and/or digitally altered images of marks that did not depict the actual mark as used in commerce and file these specimens with the Office, and as a result, in some cases, the USPTO issued trademark registrations based on the false or fraudulent specimens or digitally altered marks, putting the validity of the resulting trademarks in jeopardy, and/or (ii) failing to inform the USPTO of the potentially invalid applications and/or registrations that resulted from the filing of false or fraudulent specimens or digitally altered marks; engaging in conduct prejudicial to the administration of justice by, *inter alia*: (i) telling a witness not to talk to OED; (ii) falsely telling potential witnesses that talking to OED could affect their trademark rights; (iii) withholding the names of former employees for months; and/or (iv) not providing OED with

the documents it sought (invoices, employment agreements, correspondence about § 2(f) declarations, and/or a privilege log));

- ee. 37 C.F.R. § 11.804(i) (engaging in any other conduct that adversely reflects on the practitioner's fitness to practice before the Office, by engaging in the conduct referenced in Count I of the Complaint, to the extent that the conduct does not otherwise violate another provision of the USPTO Rules of Professional Conduct; engaging in any other conduct that adversely reflects on the practitioner's fitness to practice before the Office, by engaging in the conduct referenced in Count II of the Complaint, to the extent that the conduct does not otherwise violate another provision of the USPTO Rules of Professional Conduct; engaging in any other conduct that adversely reflects on the practitioner's fitness to practice before the Office, by engaging in the conduct referenced in Count III of the Complaint to the extent that his conduct does not otherwise violate a provision of the USPTO Rules of Professional Conduct; engaging in any other conduct that adversely reflects on the practitioner's fitness to practice before the Office, by engaging in the conduct referenced in Count IV of the Complaint to the extent that his conduct does not otherwise violate a provision of the USPTO Code of Professional Responsibility; engaging in any other conduct that adversely reflects on the practitioner's fitness to practice before the Office, by engaging in the conduct referenced in Count V of the Complaint, to the extent that the conduct does not otherwise violate another provision of the USPTO Rules of Professional Conduct; other conduct that adversely reflects on the practitioner's fitness to practice before the Office, by engaging in the acts and omissions described in Count VIII above).

3. Without admitting that he violated any of the Disciplinary Rules of the USPTO Code of Professional Responsibility and/or the Rules of Professional Conduct which are the subject of the disciplinary complaint in Proceeding No. D2016-20, he acknowledges that, if and when he applies for reinstatement to practice before the USPTO in trademark or other non-patent matters under 37 C.F.R. § 11.60, the OED Director will conclusively

presume, for the limited purpose of determining the application for reinstatement, that (a) the allegations regarding him in the complaint filed in Proceeding No. D2016-20 are true and (b) he could not have successfully defended himself against such allegations.

4. He has fully read and understands 37 C.F.R. §§ 11.5(b), 11.27, 11.58, 11.59, and 11.60, and is fully aware of the legal and factual consequences of consenting to exclusion from practice before the USPTO in trademark and non-patent matters.

5. He consents to being excluded from practice before the USPTO in trademark and non-patent matters.

#### **Exclusion on Consent**

Based on the foregoing, the USPTO Director has determined that Respondent's Affidavit For Consent Exclusion complies with the requirements of 37 C.F.R. § 11.27(a). Accordingly, it is hereby ORDERED that:

1. Respondent's Affidavit For Consent Exclusion shall be, and hereby is, approved;

2. Respondent shall be, and hereby is, excluded on consent from practice before the Office in trademark and non-patent matters commencing on the date of this Final Order;

3. The OED Director shall electronically publish the Final Order at the Office of Enrollment and Discipline's electronic FOIA Reading Room, which is publicly accessible at <http://e-foia.uspto.gov/Foia/OEDReadingRoom.jsp>;

4. The OED Director shall publish a notice in the *Official Gazette* that is materially consistent with the following:

**Notice of Exclusion on Consent**

This notice concerns Matthew H. Swyers of Vienna, Virginia, an attorney licensed to practice law in the Commonwealth of Virginia and the District of Columbia and practicing before the United States Patent and Trademark Office ("USPTO" or "Office) in trademark matters. The Director of the USPTO has accepted Mr. Swyers' affidavit for consent exclusion and ordered his exclusion on consent from practice before the Office in trademark and non-patent matters.

Mr. Swyers voluntarily submitted his affidavit at a time when a disciplinary complaint was pending against him. The complaint alleged that Mr. Swyers, an experienced trademark lawyer and former USPTO Trademark Examining Attorney, established The Trademark Company, PLLC, and through that business systematically permitted non-attorneys to practice trademark law for him with little or no supervision. The complaint alleged that Mr. Swyers, the sole attorney at the company, did not personally review or sign thousands of trademark applications and related documents (including statements of use, § 2(f) declarations, and responses to Office actions) prepared by his non-lawyer employees and filed with the USPTO, in violation of USPTO signature and certification rules and despite assurances on the company website that trademark applicants would be represented by a specialized attorney. Further, the complaint alleged that, as a result of Mr. Swyers' failure to supervise his employees, multiple fraudulent or digitally manipulated specimens of use were filed with the Office, which potentially jeopardized the trademark applications of his clients. The complaint also asserted that Mr. Swyers failed to deposit client funds paid in advance into a client trust account and improperly split legal fees with his non-practitioner employees. Finally, the complaint alleged that Mr. Swyers failed to respond to lawful requests for information or cooperate with the investigation conducted by the Office of Enrollment and Discipline.

Mr. Swyers' affidavit acknowledged that the disciplinary complaint filed against him alleged that his conduct violated the following provisions of the USPTO Code of Professional Responsibility, for conduct prior to May 3, 2013: 37 C.F.R. §§ 10.23(a) (engaging in disreputable or gross misconduct); 10.23(b)(4) (engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation);

10.23(b)(5) (engaging in conduct prejudicial to the administration of justice); 10.23(a) and (b) via 10.23(c)(2)(ii) (knowingly giving false or misleading information or knowingly participating in a material way in giving false or misleading information to the USPTO or any employee of the USPTO); 10.23(a) and (b) via 10.23(c)(15) (violating the certifications made to the USPTO under 37 C.F.R. § 11.18); 10.31(a) (deceiving or misleading prospective applicants or other persons having immediate or prospective business before the Office by advertising with respect to prospective business before the Office); 10.47(a) and (c) (aiding a non-practitioner in the unauthorized practice of law before the Office); 10.48 (sharing legal fees with a non-practitioner); 10.77(b) (handling a legal matter without preparation adequate under the circumstances); 10.77(c) (neglecting client matters); 10.84(a)(1) (intentionally failing to seek the lawful objectives of a client); 10.84(a)(3) (intentionally prejudicing or damaging the client during the course of a professional relationship); 10.89(c)(6) (intentionally or habitually violating any provision of the USPTO Code of Professional Responsibility while appearing in a professional capacity before a tribunal); 10.112(a) (failing to deposit legal fees paid in advance into a separate client trust account); and 10.23(b)(6) (engaging in other conduct that adversely reflects on the practitioner's fitness to practice before the Office).

Mr. Swyers's affidavit also acknowledged that the disciplinary complaint alleged that his conduct violated the following provisions of the USPTO Rules of Professional Conduct, for conduct on or after May 3, 2013: 37 C.F.R. §§ 11.101 (failure to provide competent representation); 11.104(a)(3) (failing to keep the clients reasonably informed about the status of a matter); 11.115(a) (failing to hold property of a client or third person that is in the lawyer's possession in connection with a representation separate from the lawyer's own property); 11.115(c) (failing to deposit into a client trust account legal fees and expenses that have been paid in advance, to be withdrawn by the practitioner only as fees are earned or expenses incurred); 11.303(a)(1) (knowingly making a false statement of fact to a tribunal or failing to correct a false statement of material fact previously made to the tribunal); 11.303(d) (failing, in an *ex parte* proceeding, to inform the tribunal of all material facts known to the practitioner that will enable the tribunal to make an informed decision, even if the facts are adverse); 11.503(a) (failing to make reasonable efforts to ensure that The Trademark Company had in effect measures giving reasonable assurance that its employees' conduct was compatible

with Respondent's professional obligations); 11.503(b) (failing to make reasonable efforts to ensure that the conduct of The Trademark Company employees over whom he had direct supervisory authority was compatible with Respondent's professional obligations); 11.503(c) (ordering or ratifying the conduct of the employees of The Trademark Company which would have been a violation of the USPTO Rules of Professional Conduct had it been committed by a practitioner, and/or failing to take remedial measures once he learned of the conduct); 11.504(a) (sharing legal fees with a non-practitioner); 11.505 (aiding in the unauthorized practice of law before the USPTO); 11.701 (making false or misleading communications about the practitioner or the practitioner's services); 11.801(b) (failing to cooperate with the Office of Enrollment and Discipline in an investigation); 11.804(c) (engaging in conduct involving dishonesty, fraud, deceit or misrepresentation); 11.804(d) (engaging in conduct that is prejudicial to the administration of justice); and 11.804(i) (engaging in the acts and omissions that adversely reflect on Respondent's fitness to practice before the Office).

While Mr. Swyers did not admit to violating any of the Disciplinary Rules of the USPTO Code of Professional Responsibility or the USPTO Rules of Professional Conduct as alleged in the pending disciplinary complaint, he acknowledged that, if and when he applies for reinstatement, the OED Director will conclusively presume, for the limited purpose of determining the application for reinstatement, that (i) the allegations set forth in the OED investigation against him are true, and (ii) he could not have successfully defended himself against such allegations.

This action is taken pursuant to the provisions of 35 U.S.C. §§ 2(b)(2)(D) and 32, and 37 C.F.R. §§ 11.27 and 11.59. Disciplinary decisions involving practitioners are posted for public reading at the Office of Enrollment and Discipline Reading Room, available at: <http://go.usa.gov/x9rhg>.

5. Respondent shall comply fully with 37 C.F.R. § 11.58; and

6. Respondent shall comply fully with 37 C.F.R. § 11.60 upon any request for reinstatement.



\_\_\_\_\_  
David Shewchuk  
Deputy General Counsel for General Law  
United States Patent and Trademark Office

26 Jan 2017

\_\_\_\_\_  
Date

on behalf of

Michelle K. Lee  
Under Secretary of Commerce for Intellectual Property and  
Director of the United States Patent and Trademark Office

cc:

Director of the Office of Enrollment and Discipline  
U.S. Patent and Trademark Office

Danny M. Howell  
Robert Jackson Martin IV  
Anne M. Sterba  
Law Office of Danny M. Howell, PLLC  
2010 Corporate Ridge, Suite 700  
McLean, VA 22102  
*Counsel for Matthew H. Swyers*

# EXHIBIT I



7. At all times relevant to this Agreement, a non-lawyer assistant, [REDACTED] worked for Respondent at Novak Druce LLP and Novak, Druce & Quigg LLP from 2004 through late 2006. ([REDACTED] is hereinafter referred to as "the non-lawyer assistant.")

8. At all relevant times, Respondent was responsible for the supervision of the non-lawyer assistant.

9. From at least 2004 through 2006, the non-lawyer assistant submitted, with intent to deceive, knowingly false statements to the Office in many patent applications that Respondent was responsible for prosecuting on behalf of clients.

10. The non-lawyer assistant submitted the following types of false statements to the Office in patent applications that Respondent was responsible for prosecuting:

- a. fabricating email confirmation messages and submitting the fabricated emails to the Office as evidence that papers had been sent to the Office via facsimile transmission when, in fact, the papers were never sent to the Office;
- b. affixing USPTO receipt stamps to postcards and submitting the doctored postcard receipts to the Office as evidence that the Office had received papers when, in fact, the papers were never sent to the Office;
- c. fabricating a United States Postal Service Express Mail label that falsely represented a patent application had been mailed to the Office on a certain date when, in fact, the application had never been sent to the Office; and
- d. backdating certificates of mailing that falsely represented that papers had been mailed to the Office weeks and/or months earlier than they actually had been sent.

11. Additionally, the non-lawyer assistant signed Respondent's signature to papers filed with the Office in many patent applications that Respondent was responsible for prosecuting on behalf of clients.

12. Additionally, the non-lawyer assistant electronically "cut and pasted" a digital version of Respondent's signature and affixed it to papers filed with the Office in many patent applications that Respondent was responsible for prosecuting on behalf of clients.

13. Additionally, the non-lawyer assistant prepared petitions; signed Respondent's name to the petitions and/or affixed a digital version of Respondent's signature to the petitions; and filed the petitions in the Office.

14. Respondent knew that the non-lawyer assistant had signed Respondent's name to application papers submitted to the Office in many patent applications that Respondent was responsible for prosecuting on behalf of clients.

15. The non-lawyer assistant represented in a declaration that he engaged in the misconduct described in paragraphs 9-12, above, without Respondent's knowledge.

16. Respondent represents that he did not know of the non-lawyer assistant's misconduct described in paragraphs 9-12, above, and the non-lawyer assistant represents that he acted alone and kept his misconduct secret from Respondent.

17. Respondent acknowledges he did not adequately supervise the non-lawyer assistant's activities.

18. Previously, Respondent completed and returned to the OED Director the USPTO Mandatory Survey (Form PTO 107S) issued under 37 C.F.R. § 11.11(a)(2). Respondent indicated on the survey that he did not wish to remain on the register of registered practitioners (37 C.F.R. § 11.5), and the OED Director removed Respondent from the register. Accordingly, pursuant to 37 C.F.R. § 11.10(a), Respondent is not permitted to prosecute patent applications of others before the Office or represent others in any proceedings before the Office unless and until he is reinstated to the register.

#### **Joint Legal Conclusion**

19. Respondent acknowledges that, based on the above stipulated facts, he violated 37 C.F.R. § 10.77(c) (a practitioner shall not neglect a legal matter entrusted to the practitioner) by not adequately supervising his non-lawyer assistant.

#### **Agreed Upon Sanction**

20. Respondent agrees, and it is hereby ORDERED that:

- a. If Respondent seeks reinstatement to the Office's register of practitioners under 37 C.F.R. § 11.7, Respondent shall be suspended from practice before the Office in patent, trademark, and other non-patent matters for twenty-four (24) months commencing on the date that a request for Respondent's reinstatement to the register is granted;
- b. The 24-month suspension, which is contingent upon Respondent seeking and being granted reinstatement, shall be stayed;
- c. Respondent shall serve a twenty-four (24) month period of probation commencing on the date that a request for Respondent's reinstatement to the register is granted;

- d. Respondent shall be permitted to practice before the USPTO in patent, trademark, and other non-patent matters during his probationary period unless his probation is revoked and he is suspended by order of the USPTO Director or otherwise no longer has the authority to practice;
- e. When and if Respondent seeks reinstatement pursuant to 37 C.F.R. § 11.7, the present disciplinary proceeding will not be a basis for barring his reinstatement provided that Respondent complies with the terms of the Final Order;
- f. Respondent shall provide certain information to certain present and former client(s) as set forth in subparagraphs i. through aa., below;
- g. Respondent shall use his best efforts to identify each patent application that Respondent prosecuted before the Office at any time between January 1, 2004, and December 31, 2006, that meet all of the following three conditions:
  - (1) The Office received between January 1, 2004, and December 31, 2006, any of the following: (i) a petition to revive an abandoned application, (ii) a petition to withdraw the holding of abandonment; and/or (iii) a petition for extension of time where the petition for extension of time was transmitted to the Office by the non-lawyer assistant and where the petition for extension of time's transmittal date preceded the Office's receipt date by more than thirty (30) days;
  - (2) The non-lawyer assistant transmitted any paper in the application to the Office at any time between January 1, 2004, and December 31, 2006; and
  - (3) The Office issued a patent on the application at any time;
- h. For each patent application identified by Respondent pursuant to the preceding subparagraph, Respondent shall identify the present client(s) and former client(s) for whom patent legal services on the application were performed;
- i. For each present and former client(s) identified by Respondent pursuant to the preceding subparagraph, Respondent shall provide each such present and former client(s) with the following documents:
  - (1) A copy of the April 10, 2014 declaration executed by the non-lawyer assistant with the patent application serial numbers redacted; and
  - (2) A copy of the redacted Final Order;
- j. Respondent shall also provide unambiguous written notification to the present and former client(s) that Respondent represented in connection with U.S. Patent

Application No. [REDACTED] of the specific false statements described in ¶ 14 of the April 10, 2014 declaration;<sup>2</sup>

- k. Respondent shall also provide unambiguous written notification to the present and former client(s) that Respondent represented in connection with U.S. Patent Application No. [REDACTED] of the specific potentially false statements described in ¶ 15 of the April 10, 2014 declaration;
- l. Respondent shall also provide unambiguous written notification to the present and former client(s) that Respondent represented in connection with U.S. Patent Application No. [REDACTED] of the specific potentially false statements described in ¶ 15 of the April 10, 2014 declaration;
- m. Respondent shall also provide unambiguous written notification to the present and former client(s) that Respondent represented in connection with U.S. Patent Application No. [REDACTED] of the specific potentially false statements described in ¶ 15 of the April 10, 2014 declaration;
- n. Respondent shall also provide unambiguous written notification to the present and former client(s) that Respondent represented in connection with U.S. Patent Application No. [REDACTED] of the specific potentially false statements described in ¶ 15 of the April 10, 2014 declaration;
- o. Respondent shall also provide unambiguous written notification to the present and former client(s) that Respondent represented in connection with U.S. Patent Application No. [REDACTED] of the specific potentially false statements described in ¶ 15 of the April 10, 2014 declaration;
- p. Respondent shall also provide unambiguous written notification to the present and former client(s) that Respondent represented in connection with U.S. Patent Application No. [REDACTED] of the specific potentially false statements described in ¶ 16 of the April 10, 2014 declaration and the potential backdating of certificates of mailing described in ¶ 17 of the April 10, 2014 declaration;
- q. Respondent shall also provide unambiguous written notification to the present and former client(s) that Respondent represented in connection with U.S. Patent Application No. [REDACTED] of the potential backdating of certificates of mailing described in ¶ 17 of the April 10, 2014 declaration;
- r. Respondent shall also provide unambiguous written notification to the present and former client(s) that Respondent represented in connection with U.S. Patent

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<sup>2</sup> The patent application serial number identified in ¶ 14 of the April 10, 2014 declaration as “[REDACTED]” is incorrect. The correct serial number is [REDACTED]

Application No. [REDACTED] of the potential backdating of certificates of mailing described in ¶ 17 of the April 10, 2014 declaration;

- s. Respondent shall also provide unambiguous written notification to the present and former client(s) that Respondent represented in connection with U.S. Patent Application No. [REDACTED] of the potential backdating of certificates of mailing described in ¶ 17 of the April 10, 2014 declaration;
- t. Respondent shall also provide unambiguous written notification to the present and former client(s) that Respondent represented in connection with U.S. Patent Application No. [REDACTED] of the potential backdating of certificates of mailing described in ¶ 17 of the April 10, 2014 declaration;
- u. Respondent shall also provide unambiguous written notification to the present and former client(s) that Respondent represented in connection with of U.S. Patent Application No. [REDACTED] of the potential backdating of certificates of mailing described in ¶ 17 of the April 10, 2014 declaration;
- v. Respondent shall also provide unambiguous written notification to the present and former client(s) that Respondent represented in connection with U.S. Patent Application No. [REDACTED] of the potential backdating of certificates of mailing described in ¶ 17 of the April 10, 2014 declaration;
- w. Respondent shall also provide unambiguous written notification to the present and former client(s) that Respondent represented in connection with U.S. Patent Application No. [REDACTED] of the potential backdating of certificates of mailing described in ¶ 17 of the April 10, 2014 declaration;
- x. Respondent shall also provide unambiguous written notification to the present and former client(s) that Respondent represented in connection with of U.S. Patent Application No. [REDACTED] of the potential backdating of certificates of mailing described in ¶ 17 of the April 10, 2014 declaration;
- y. Respondent shall also provide unambiguous written notification to the present and former client(s) that Respondent represented in connection with U.S. Patent Application No. [REDACTED] of the potential backdating of certificates of mailing described in ¶ 17 of the April 10, 2014 declaration;
- z. Respondent shall also provide unambiguous written notification to the present and former client(s) that Respondent represented in connection with U.S. Patent Application No. [REDACTED] of the potential backdating of certificates of mailing described in ¶ 17 of the April 10, 2014 declaration;<sup>3</sup>

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<sup>3</sup> The patent application serial number identified in ¶ 14 of the April 10, 2014 declaration as [REDACTED] is incorrect. The correct serial number is [REDACTED]

- aa. Respondent shall also provide unambiguous written notification to the present and former client(s) that Respondent represented in connection with U.S. Patent Application No. [REDACTED] of the potential backdating of certificates of mailing described in ¶ 17 of the April 10, 2014 declaration;
- bb. Within 120 days of the day that the Final Order is signed, Respondent shall submit the following to the OED Director: (1) an affidavit or declaration attesting to his compliance with the terms of this Agreement and the Final Order for notifying present and former client(s) as set forth in subparagraphs i. through aa., above, and (2) a copy of the correspondence to clients, including the written notifications transmitted to the current and former client(s), evidencing his compliance with the terms of this Agreement and the Final Order for notifying present and former client(s); the client correspondence provided to the OED in accordance with this subparagraph shall be marked "CONFIDENTIAL" by the Respondent, and the OED shall keep the correspondence confidential;
- cc. (1) If the OED Director is of the good faith opinion that Respondent, during Respondent's probationary period, failed to comply with any provision of the Agreement, this Final Order, or any provision of the USPTO Rules of Professional Conduct, the OED Director shall:
  - (A) Issue to Respondent an Order to Show Cause why the USPTO Director should not enter an order immediately suspending Respondent for up to twenty-four (24) months for the violation set forth in paragraph 19, above;
  - (B) Send the Order to Show Cause to Respondent at the last address of record Respondent furnished to the OED Director pursuant to 37 C.F.R. § 11.11; and
  - (C) Grant Respondent thirty (30) days to respond to the Order to Show Cause; and
- (2) In the event that after the 30-day period for response and consideration of the response, if any, received from Respondent, the OED Director continues to be of the opinion that Respondent, during Respondent's probationary period, failed to comply with any provision of the Agreement, this Final Order, or any provision of the USPTO Rules of Professional Conduct, the OED Director shall:
  - (A) Deliver to the USPTO Director: (i) the Order to Show Cause; (ii) Respondent's response to the Order to Show Cause, if any; and (iii) argument and evidence causing the OED Director to be of the opinion that Respondent, during Respondent's probationary period, failed to comply with any provision of the Agreement, Final Order, or any provision of the USPTO Rules of Professional Conduct; and

- (B) Request that the USPTO Director enter an order immediately suspending Respondent for up to twenty-four (24) months for the violation set forth in paragraph 19, above;
- dd. Nothing herein shall prevent the OED Director from seeking discipline for the misconduct leading to Respondent's suspension pursuant to the preceding subparagraph;
- ee. In the event the USPTO Director suspends Respondent pursuant to subparagraph cc., above, and Respondent seeks a review of the suspension, any such review of the suspension shall not operate to postpone or otherwise hold in abeyance the suspension;
- ff. The OED Director shall comply with 37 C.F.R. § 11.59 except that [REDACTED] name and all patent application serial numbers shall be redacted from the Final Order.
- gg. The OED Director shall electronically publish the Final Order at the Office of Enrollment and Discipline's electronic FOIA Reading Room, which is publicly accessible at <http://e-foia.uspto.gov/Foia/OEDReadingRoom.jsp>;
- hh. The OED Director shall publish a notice in the *Official Gazette* that is materially consistent with the following:

#### **Notice of Discipline**

This notice concerns Tracy W. Druce of Houston, Texas (Registration No. 35,493), who previously left the United States Patent and Trademark Office ("USPTO" or "Office") register of practitioners. The USPTO Director has ordered that, if Mr. Druce is reinstated to the register of practitioners, then he shall be suspended from practice before the Office in patent, trademark, and other non-patent matters for twenty-four (24) months, with the entirety of the suspension stayed, for violating 37 C.F.R. § 10.77(c) (a practitioner shall not neglect a legal matter entrusted to the practitioner). Mr. Druce will also be required to serve a twenty-four (24) month period of probation upon being reinstated to the register.

Mr. Druce was responsible for the supervision of a non-lawyer assistant who, from at least 2004 through 2006, submitted, with intent to deceive, knowingly false statements to the Office in many patent applications that Mr. Druce was responsible for prosecuting on behalf of clients. The non-lawyer assistant did the following: (1) fabricated email confirmation messages and submitted the fabricated emails to the Office as evidence that papers had been sent to the Office via facsimile transmission when, in fact, the papers were never sent to the

Office; (2) affixed USPTO receipt stamps to postcards and submitted the doctored postcard receipts to the Office as evidence that the Office had received papers when, in fact, the papers were never sent to the Office; (3) fabricated a United States Postal Service Express Mail label that falsely represented that a patent application had been mailed to the Office on a certain date when, in fact, the application had never been sent to the Office; and (4) backdated certificates of mailing that falsely represented that papers had been mailed to the Office weeks and/or months earlier than they actually had been sent.

The violation of 37 C.F.R. § 10.77(c) is predicated upon Mr. Druce not adequately supervising a non-lawyer assistant.

Mr. Druce represents that he did not have actual knowledge of the non-lawyer assistant's false submissions to the Office, and the non-lawyer assistant represents that he acted alone and kept his misconduct secret from Mr. Druce.

In reaching a settlement with Mr. Druce, OED Director took into consideration the following: (a) the non-lawyer assistant's misconduct occurred many years ago in 2004, 2005, and 2006; (b) Mr. Druce cooperated with the investigation of the facts and circumstances involved in this disciplinary proceeding; and (c) Mr. Druce will take prompt action to notify present and former clients about the misconduct committed in patent applications where patents were granted.

This action is the result of a settlement agreement between Respondent and the OED Director pursuant to the provisions of 35 U.S.C. §§ 2(b)(2)(D) and 32 and 37 C.F.R. §§ 11.26 and 11.59. Disciplinary decisions involving practitioners are posted for public reading at the Office of Enrollment and Discipline Reading Room, available at: <http://e-foia.uspto.gov/Foia/OEDReadingRoom.jsp>.

- ii. Nothing in this Agreement or the Final Order approving this Agreement shall prevent the Office from considering the record of this disciplinary proceeding (1) when addressing any further complaint or evidence of the same or similar misconduct concerning Respondent brought to the attention of the Office; and/or (2) in any future disciplinary proceeding against Respondent (a) as an aggravating factor to be taken into consideration in determining any discipline to be imposed and/or (b) to rebut any statement or representation by or on Respondent's behalf;
- jj. The OED Director shall file a motion with the administrative law judge requesting the dismissal of the pending disciplinary proceeding within fourteen (14) days of the date of the Final Order; and

kk. The OED Director and Respondent shall each bear their own costs incurred to date and in carrying out the terms of this Agreement and the Final Order.

The foregoing is understood and agreed to by:



for JAMES O. PAYNE  
Deputy General Counsel for General Law  
United States Patent and Trademark Office

SEP - 5 2014

Date

on behalf of

Michelle K. Lee  
Deputy Under Secretary of Commerce for Intellectual Property  
and Deputy Director of the United States Patent and Trademark Office

cc: Director of the Office of Enrollment and Discipline  
United States Patent and Trademark Office

Abbe David Lowell  
Chadbourne & Parke LLP  
30 Rockefeller Plaza, New York, NY 10112  
Respondent's Counsel

Christopher Man  
Chadbourne & Parke LLP  
1200 New Hampshire Ave N.W., Washington, DC 20036  
Respondent's Counsel

# EXHIBIT J

UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE DIRECTOR OF THE  
UNITED STATES PATENT AND TRADEMARK OFFICE

In the Matter of: )  
 )  
Leonard Tachner, ) Proceeding No. D2014-22  
 )  
Respondent )  
\_\_\_\_\_ )

**FINAL ORDER**

Pursuant to 37 C.F.R. § 11.27(b), the Director of the United States Patent and Trademark Office (“USPTO” or “Office”) received for review and approval from the Director of the Office of Enrollment and Discipline (“OED Director”) an Affidavit of Resignation Pursuant to 37 C.F.R. § 11.27 executed by Leonard Tachner (“Respondent”) on June 2, 2014. Respondent submitted the affidavit to the USPTO for the purpose of being excluded on consent pursuant to 37 C.F.R. § 11.27.

For the reasons set forth herein, Respondent’s Affidavit of Resignation shall be approved and Respondent shall be excluded on consent from practice before the Office in patent, trademark, and other non-patent matters commencing on the date of this Final Order.

**Jurisdiction**

Respondent of San Jose, California, is a registered patent attorney (Reg. No. 26,344) and is subject to the USPTO Rules of Professional Conduct, 37 C.F.R. § 11.101, *et seq.*

*See* 37 C.F.R. § 11.19(a).<sup>1</sup>

Pursuant to 35 U.S.C. §§ 2(b)(2)(D) and 32 and 37 C.F.R. § 11.27, the USPTO Director has the authority to approve Respondent’s Affidavit of Resignation and to exclude Respondent

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<sup>1</sup> The USPTO Code of Professional Responsibility applies to practitioner misconduct that occurred prior to May 3, 2013, while the USPTO Rules of Professional Conduct, 37 C.F.R. § 11.101 *et seq.*, apply to a practitioner misconduct that occurred after May 2, 2013.

on consent from practice before the Office in patent, trademark, and other non-patent matters before the Office.

### **Respondent's Affidavit of Resignation**

Respondent acknowledges in his June 2, 2014 Affidavit of Resignation that:

1. His consent is freely and voluntarily rendered, and he is not being subjected to coercion or duress.
2. He is aware that the OED Director opened an investigation of allegations that that he violated the USPTO Rules of Professional Conduct, namely: OED File No. G2239. The investigation concerned allegations, *inter alia*, that:
  - a. By Final Order dated April 12, 2013, Respondent was suspended for five years from the practice of patent, trademark and other non-patent matters before the USPTO for neglecting patent matters by allowing patents to expire for not timely paying maintenance fees, for failing to inform clients of important USPTO correspondence and giving misleading information to clients about the status of their patents. He also failed to conduct an inquiry reasonable under the circumstances prior to signing and filing certain submissions with the USPTO;
  - b. By Final Order dated April 12, 2013, Respondent was granted limited recognition to practice before the USPTO commencing on the date the Final Order and expiring thirty (30) days after the date the Final Order is signed, with such limited recognition being granted for the sole purpose of facilitating Respondent's compliance with the provisions of 37 C.F.R. § 11.58(b).
  - c. Respondent engaged in the unauthorized practice of law in the prosecution of U.S. Trademark application nos. 85/906,074 and 85/906,085 by representing clients before the USPTO while he was not authorized to do so; and
  - d. Respondent did not inform his clients or the trademark examiner in U.S. Trademark application nos. 85/906,074 and 85/906,085 that he was not authorized to represent the clients before the USPTO.
3. He is aware that the disciplinary complaint pending against him alleges that he violated the following provisions of the USPTO Rules of Professional Conduct:
  - a. 37 C.F.R. § 11.804(a) (proscribing engaging in conduct that is a violation of the USPTO Rules of Professional Conduct);

- b. 37 C.F.R. § 11.804(c) (proscribing engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation);
- c. 37 C.F.R. § 11.804(d) (proscribing engaging in conduct that is prejudicial to the administration of justice); and
- d. 37 C.F.R. § 11.505 (proscribing the unauthorized practice of law).

4. Without admitting to any of the allegations at issue in the pending disciplinary investigation or to violating any of the USPTO Rules of Professional Conduct, Respondent acknowledges that, if and when he applies for reinstatement under 37 C.F.R. § 11.60, the OED Director will conclusively presume, for the purpose of determining the application for reinstatement, that (a) the allegations set forth in OED File No. G2239 and USPTO disciplinary proceeding D2014-22 are true and (b) he could not have successfully defended himself against such allegations.

5. Respondent has fully read and understands 37 C.F.R. §§ 11.5(b), 11.27, 11.58, 11.59, and 11.60, and is fully aware of the legal and factual consequences of consenting to exclusion from practice before the USPTO in patent, trademark, and other non-patent matters.

6. He consents to being excluded from practice before the USPTO in patent, trademark, and other non-patent matters.

#### **Exclusion on Consent**

Based on the foregoing, the USPTO Director has determined that Respondent's Affidavit of Resignation complies with the requirements of 37 C.F.R. § 11.27(a). Hence, it is ORDERED that:

- a. Respondent's Affidavit of Resignation shall be, and hereby is, approved;
- b. Respondent shall be, and hereby is, excluded on consent from practice before

the Office in patent, trademark, and other non-patent matters commencing on the date of this Final Order;

c. The OED Director shall electronically publish this Final Order at the Office of Enrollment and Discipline's electronic FOIA Reading Room, which is publicly accessible at <http://e-foia.uspto.gov/Foia/OEDReadingRoom.jsp>;

d. The OED Director shall publish the following notice in the *Official*

*Gazette*:

**Notice of Exclusion on Consent**

This notice concerns Leonard Tachner of San Jose California, a registered patent attorney (Reg. No. 26,344). The Director of the United States Patent and Trademark Office ("USPTO" or "Office") has accepted Mr. Tachner's affidavit of resignation and ordered his exclusion on consent from practice before the Office in patent, trademark, and other non-patent matters.

Mr. Tachner voluntarily submitted his affidavit at a time when a disciplinary investigation was pending against him. The investigation concerned allegations, *inter alia*, that:

- a) By Final Order dated April 12, 2013, Respondent was suspended for five years from the practice of patent, trademark and other non-patent matters before the USPTO for neglecting patent matters by allowing patents to expire for not timely paying maintenance fees, for failing to inform clients of important USPTO correspondence and giving misleading information to clients about the status of their patents. He also failed to conduct an inquiry reasonable under the circumstances prior to signing and filing certain submissions with the USPTO;
- b) By Final Order dated April 12, 2013, Respondent was granted limited recognition to practice before the USPTO commencing on the date the Final Order and expiring thirty (30) days after the date the Final Order is signed, with such limited recognition being granted for the sole purpose of facilitating Respondent's compliance with the provisions of 37 C.F.R. § 11.58(b).
- c) Respondent engaged in the unauthorized practice of law in the prosecution of U.S. Trademark application nos. 85/906,074 and 85/906,085 by representing clients before the USPTO while he was not authorized to do so; and
- d) Respondent did not inform his clients or the trademark examiner in U.S. Trademark application nos. 85/906,074 and 85/906,085 that he was not authorized to represent the clients before the USPTO.

The disciplinary investigation concerned allegations that Respondent violated the following provisions of the USPTO Rules of Professional Conduct:

- a. 37 C.F.R. § 11.804(a) (proscribing engaging in conduct that is a violation of the USPTO Rules of Professional Conduct);
- b. 37 C.F.R. § 11.804(c) (proscribing engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation);
- c. 37 C.F.R. § 11.804(d) (proscribing engaging in conduct that is prejudicial to the administration of justice); and
- d. 37 C.F.R. § 11.505 (proscribing the unauthorized practice of law).

While Mr. Tachner did not admit to any of the allegations at issue in the pending disciplinary investigation or to violating any of the Disciplinary Rules of the USPTO Code of Professional Conduct, he acknowledged that, if and when he applies for reinstatement, the OED Director will conclusively presume, for the purpose of determining the application for reinstatement, that (i) the allegations set forth in OED File No. G2239 and USPTO disciplinary proceeding D2014-22 are true, and (ii) he could not have successfully defended himself against such allegations.

This action is taken pursuant to the provisions of 35 U.S.C. §§ 2(b)(2)(D) and 32, and 37 C.F.R. §§ 11.27 and 11.59. Disciplinary decisions involving practitioners are posted for public reading at the Office of Enrollment and Discipline Reading Room, available at:

<http://e-foia.uspto.gov/Foia/OEDReadingRoom.jsp>.

- e. Respondent shall comply with 37 C.F.R. § 11.58;
- f. The OED Director shall comply with 37 C.F.R. § 11.59;
- g. Respondent shall comply with 37 C.F.R. § 11.60 upon any request for

reinstatement;

- h. The OED Director and Respondent shall bear their own costs incurred to date;

and

in carrying out the terms of this agreement

- i. USPTO Disciplinary Proceeding No. D2014-22 is hereby dismissed.

(only signature page follows)

JUN 30 2014

Date



JAMES O. PAYNE  
Deputy General Counsel for General Law  
United States Patent and Trademark Office

on behalf of

Michelle K. Lee  
Deputy Under Secretary of Commerce for Intellectual  
Property and Deputy Director of the United States Patent and  
Trademark Office

cc:

Director of the Office of Enrollment and Discipline  
U.S. Patent and Trademark Office

Cameron Weiffenbach  
Miles & Stockbridge, P.C.  
1751 Pinnacle Drive, Suite 500  
McLean, Virginia 22102  
Respondent's counsel

# EXHIBIT K

TRUE OR FALSE ? A single insurance broker should always function as our company's advocate in the insurance market. LS Lowenstein Sandler

# Avvo, LegalZoom, Rocket Lawyer Declared Off-Limits

By David Gialanella | June 22, 2017 at 04:49 PM | Originally published on [New Jersey Law Journal \(/njlawjournal/\)](#)

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(http://images.law.com/contrib/content/uploads/sites/292/2017/06/Josh-King-Article-201706211757.jpg) Josh King is a Vice President, Business Development and General Counsel at Avvo, Inc. HANDOUT.

A joint opinion by three New Jersey Supreme Court committees has blacklisted three web-based services that match litigants with attorneys because of concerns over illicit fee-sharing and referral fees.

Avvo facilitates improper fee-splitting, while LegalZoom and Rocket Lawyer operate legal service plans that aren't registered with the judiciary, according to the June 21 opinion, issued by the Advisory Committee on Professional Ethics, the Committee on Attorney Advertising and the Committee on the Unauthorized Practice of Law.

The opinion decrees that "New Jersey lawyers may not participate in the Avvo legal service programs because the programs improperly require the lawyer to share a legal fee with a nonlawyer in violation of Rule of Professional Conduct 5.4(a), and pay an impermissible referral fee in violation of Rule of Professional Conduct 7.2(c) and 7.3(d)."

It adds: "The Committees further find that LegalZoom and Rocket Lawyer appear to operate legal service plans through their websites but New Jersey lawyers may not participate in these plans because they are not registered with the Administrative Office of the Courts in accordance with Rule of Professional Conduct 7.3(e)(4)(vii)."

All three companies have defended their services.

The New Jersey State Bar Association sent an inquiry to the ACPE, asking whether lawyers may "participate in certain online, non-layer, corporately owned services," and named Avvo, LegalZoom and Rocket Lawyer specifically.

According to the opinion, Avvo offers "Avvo Advisor"—through which customers buy 15-minute phone conversations with a lawyer for a \$40 flat rate, of which Avvo keeps a \$10 marketing fee—and "Avvo Legal Services," which allows customers to pay flat fees to Avvo for legal services provided by affiliated lawyers, after which Avvo pays the lawyer but keeps a marketing fee.

legalzoom LET'S JOIN FORCES IN PROTECTING YOUR BUSINESS Distinguish your brand by registering a trademark. Get Started

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5

LegalZoom offers a monthly subscription to legal services for a flat fee, through “Business Advantage Pro” and “Legal Advantage Plus,” through which customers get 30-minute phone consultations with lawyers of their choosing, or the “first available” lawyer. Lawyers do not pay to participate in LegalZoom, and LegalZoom keeps its subscription fees, the committees said.

Rocket Lawyer, which offers “limited legal advice on document-related matters” and a free 30-minute phone consultation, does not take payments from lawyers to join—though the lawyers “agree to offer a discounted fee for additional services”—and does not share its subscription fees with the lawyers, according to the opinion.

LegalZoom and Rocket Lawyer’s services “appear to be legal service plans,” which are permissible under RPC 7.3(e)(4), but “as of the date of this Joint Opinion ... neither organization has registered a legal service plan with the Administrative Office of the Courts,” the committees said.

The Avvo plans have a different problem, according to the opinion: They are “pay-for-service plans,” and the company’s business model violates RPC 5.4(a), which prohibits fee-sharing.

“The participating lawyer receives the set price for the legal service provided, then pays a portion of that amount to Avvo,” the committee said. “The label Avvo assigns to this payment (“marketing fee”) does not determine the purpose of the fee. ... Here, lawyers pay a portion of the legal fee earned to a nonlawyer; this is impermissible fee sharing.”

The committees found that the LegalZoom and Rocket Lawyer models do not violate the fee-sharing stricture.

The opinion also holds that marketing fees lawyers pay to Avvo are not for advertising but amount to an “impermissible referral fee” by the definition contained in RPCs 7.2(c) and 7.3(d).

“When the lawyers pay a fee to the company based on the retention of the lawyer by the client or the establishment of an attorney-client relationship, the answer to the inquiry is simple: the company operates an impermissible referral service,” the committees said.

On the bright side for Avvo, the committees did find that its model does not “unduly interfere with a lawyer’s professional judgment in violation of Rule of Professional Conduct 5.4(c)” by limiting the scope of representation.

“Avvo does not insert itself into the legal consultation in a manner that would interfere with the lawyer’s professional judgment,” they said. “As for LegalZoom and Rocket Lawyer, Inquirer suggested that lawyers may be constricted in the service they provide for clients in the limited phone consultations. Again, however, this is the nature of legal service plans.”

The committees also found that Avvo’s practice of holding the lawyer’s fee until the service is provided violates an attorney’s requirement to maintain a registered trust account per Rule 1:28(a)-2.

Avvo submitted a response contending that it wasn’t giving referrals and its marketing fee is a separate transaction—meaning that it doesn’t amount to fee-sharing. The company also “claimed to be serving a public purpose of improving access to legal services,” according to the opinion.

“The Committees acknowledge that improving access to legal services is commendable, but participating lawyers must still adhere to ethical standards,” they said.

The opinion also dispensed with the notion that Avvo is engaged in commercial speech that’s protected by the First Amendment.

The committees noted that Avvo’s business model has been found to violate ethics standards in Pennsylvania, South Carolina and Ohio.

LegalZoom submitted a response emphasizing that its employees don’t offer legal services, and has a contract with a New Jersey firm to which it pays a monthly fee based on the number of participants in the service plan. The opinion does not identify the name of the firm. Judiciary spokeswoman Winnie Comfort said any documents identifying the firm are confidential.

Rocket Lawyer, too, submitted a response, stating that the actual legal services are provided by independent lawyers, who are “paid an undisclosed sum by Rocket Lawyer for participation in the ‘Q&A Service,’” according to the opinion.

**Energy Bankruptcies Leave  
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Awo Chief Legal Officer Josh King said in a statement that the company is "happy the Committees concluded that Avvo Legal Services doesn't interfere with the independent professional judgment of lawyers, but disappointed that the Committees focused solely on mechanistic application of the rules rather than what the law requires: consumer protection and respect for the First Amendment."

He added: "Avvo is attempting to address the pressing need for greater consumer access to justice, and we will continue to do so despite this advisory opinion."

Rocket Lawyer, through a spokeswoman, declined to comment on the opinion.

A representative of LegalZoom, reached by email, did not provide comment by press time.

NJSBA President Robert Hille issued a statement saying the association "has in recent years frequently expressed concern about the growing number of organizations that have sought to open the door to fee sharing, which could interfere with a lawyer's independent professional judgement."

The NJSBA sent the inquiry "since many of our colleagues have taken advantage of the services some companies offer, without a thorough vetting of how they comport with the ethics rules," added Hille, of McElroy, Deutsch, Mulvaney & Carpenter in Morristown. "The association will continue to monitor developments as these issues evolve and will provide guidance to its members."

The opinion was accompanied by a notice to the bar, which included an appendix listing 46 legal service plans that are registered in the state, including plans offered through labor unions, government entities and corporations.

Contact David Gialanella at dgialanella@alm.com. On Twitter: @dgialanellanjf.

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JASON GRANT  
[\(/NEWYORKLAWJOURNAL/AUTHOR/PROFILE/JASON.GRANT/\)](#) |  
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A related penalty, that psychiatrist Zeinab Elbaz be evaluated by a professional medical conduct committee to determine whether she should undergo a psychiatric evaluation herself, was also not disproportionate.

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TOM MCPARLAND  
(/THELEGALINTELLIGENCER/AUTHOR/PROFILE/TOM  
MCPARLAND/) | DECEMBER 11, 2017

The Delaware Court of Chancery on Monday dismissed an investor suit stemming from a conflicted transaction that extended power giant NRG Energy's control over a subsidiary, finding that minority shareholders had overwhelmingly approved the deal.

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Home / In-Depth Reporting / Latest legal victory has LegalZoom poised...

LAW PRACTICE

# Latest legal victory has LegalZoom poised for growth

BY ROBERT AMBROGI

AUGUST 2014 (/MAGAZINE/ISSUE/2014/08/)

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In recent years, LegalZoom has faced lawsuits in eight states seeking to shut it down for violating state laws barring the unauthorized practice of law. But with a notable recent victory in South Carolina, and having fended off all but one of the other lawsuits, LegalZoom is anything but shutting down.

To the contrary, LegalZoom, which began offering legal forms online in 2001, is poised to significantly broaden the range of services it offers consumers and small businesses. Already it has expanded into prepaid legal services, operating plans in 41 states and the District of Columbia. Now it is looking ahead to offering a continuum of products and services, from simple forms to full-fledged legal advice, with both lawyers and nonlawyers in the mix.

*Chas Rampenthal, LegalZoom's general counsel, has helped the firm prevail against lawsuits brought by several states. Photo by Anne Tritt.*

“We need to continue to evolve, continue to innovate and continue to connect consumers with the services that are right for them at a price they can afford to pay,” says Chas Rampenthal, LegalZoom’s general counsel.

Meanwhile, legal ethicists such as Deborah L. Rhode, director of the Center on the Legal Profession at Stanford Law School, say it is time for the legal profession to drop efforts to shut down such companies for UPL and instead focus on how best to regulate them to protect their customers.

“With respect to LegalZoom, the train has left the station,” Rhode says. “They’ve got a couple million satisfied customers and it’s going to be really hard for anyone to shut them down.”

In a May *Fordham Law Review* article, Rhode and co-author Lucy Buford Ricca, executive director of the Center on the Legal Profession, argue that the legal market is primed for a total transformation driven by innovative companies such as LegalZoom. “From a regulatory perspective,” they write, “the key focus should not be blocking these innovations from the market, but rather using regulation to ensure that the public’s interests are met.”

## **FORMS OR ADVICE?**

The nub of complaints against LegalZoom is not the self-help documents it provides, but the way it provides them. At its website, customers buy documents to form a business, register a trademark, create a will and address other common legal needs. Questionnaires guide customers through creation of the document, after which LegalZoom employees review the answers for spelling, consistency and completeness.

Some, including the North Carolina State Bar, maintain that these elements of guidance and review transform LegalZoom from simple document provider to legal adviser. Others, such as Richard Granat

([http://www.abajournal.com/blawg/elawyering\\_blog/](http://www.abajournal.com/blawg/elawyering_blog/)), co-chair of the ABA eLawyering Task Force and president and CEO of DirectLaw Inc., contend such arguments are nothing more than “an effort to protect lawyers’ incomes.”

In 2008 the North Carolina bar issued LegalZoom a cease-and-desist letter. The matter made its way to North Carolina business court where, last March, a judge put off deciding the UPL issue, saying he required additional evidence to fully understand LegalZoom’s process for preparing complex documents.

Two weeks earlier, the high court in neighboring South Carolina gave LegalZoom a green light to operate.

Adopting the findings of a special referee it appointed to investigate the company, the court held that LegalZoom's practices "do not constitute the unauthorized practice of law."

The referee compared the functionality of LegalZoom's software to a scrivener who transcribes information without giving advice or consultation: "LegalZoom's software acts at the specific instruction of the customer and records the customer's original information verbatim, exactly as it is provided by the customer. The software does not exercise any judgment or discretion, but operates automatically in the same fashion as a 'mail merge' program."

Previously, LegalZoom settled UPL suits in California, Missouri and Washington. Lawsuits in Alabama and Ohio were dismissed. Besides North Carolina, the company still faces a challenge in Arkansas, where the matter is in arbitration.

## **ECOSYSTEM OF LEGAL SERVICES**

Even as LegalZoom has battled claims of unauthorized practice, it has moved closer to actual practice. Launching its own prepaid legal services plans was one step; another was to develop practice management systems to help the lawyers in these plans deliver services more efficiently.

But Rampenthal sees his company spurring broader changes in the legal services market, moving it toward an "ecosystem" that will more closely resemble the way medicine is delivered.

"You don't walk right in and see the doctor," he explains. "You see nurses and technicians and practitioners. The doctor relies on those other professionals, and the system lets the doctors do what they do best." Paralegals and other licensed legal professionals will provide assistance and advice for certain matters and refer more complex matters to attorneys.

LegalZoom declined to disclose its revenues. As of August 2012, it had served some 2 million customers, according to a prospectus it filed with the U.S. Securities and Exchange Commission in advance of a planned initial public offering. In 2011, it brought in revenues of \$156 million and was on track to bring in close to \$200 million in 2012. Last January, it dropped its IPO after selling \$200 million in equity to the private equity firm Permira.

## **PROTECTING THE PUBLIC**

With LegalZoom's train steaming along at full throttle, and given other changes in the legal industry, the unauthorized practice debate is no longer relevant, many say.

"The best approach is to recognize that these new players are providing a kind of legal service," says Andrew M. Perlman, director of the Institute on Law Practice Technology and Innovation at Suffolk University Law School. "What we call it is less important than what we do with them. We need to find a way to appropriately regulate what they do so that the public is protected."

Regulation, Perlman believes, would encourage innovation in the delivery of legal services by eliminating the legal uncertainties faced by companies such as LegalZoom. "The more we resolve these questions through regulation, the more we'll free up innovation."

However, Milan Markovic, associate professor at Texas A&M University School of Law, questions the premise that companies such as LegalZoom are needed because of the failure of the legal profession to meet the needs of middle-income consumers. "My problem is we have almost no data to support that, and the types of services LegalZoom offers actually can be obtained," he says, sometimes at even lower cost.

Markovic would prefer that bar associations accept we are in a do-it-yourself age and directly provide to consumers more of the documents and services they want. To the extent evidence can substantiate legitimate failures in the legal services market, however, Markovic would support regulatory or licensing schemes that would allow for alternatives.

No one can say whether LegalZoom has seen the last of these UPL suits. But in its 2012 SEC filing, it noted the lawsuits then pending and added: "We anticipate that we will continue to be the target for such lawsuits in the future."

*This article originally appeared in the August 2014 issue of the ABA Journal with this headline: "Why Is This Man Smiling? Latest legal victory has LegalZoom poised for growth."*



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# EXHIBIT L

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You	42.31%	2.5	—	—	71.95%	—
ttcbusinesssolutions.com	15.84%	2.5	22.63%	51.30%	69.88%	37.40%
trademarkengine.com	14.98%	2.1	22.93%	65.64%	85.35%	35.95%
legal-sherpa.com	13.74%	3.3	22.02%	36.68%	57.92%	38.90%
trademarkplus.com	10.58%	2.8	18.38%	51.58%	82.44%	38.30%
trademarkcrew.com	< 10%	4.2	15.39%	32.93%	51.91%	40.17%
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## Terms of Service

- 1. I understand and agree that LegalZoom is not a law firm or an attorney, may not perform services performed by an attorney, and its forms or templates are not a substitute for the advice or services of an attorney. Rather, I am representing myself in this legal matter. No attorney-client relationship or privilege is created with LegalZoom.**
- 2.** If, prior to my purchase, I believe that LegalZoom gave me any legal advice, opinion or recommendation about my legal rights, remedies, defenses, options, selection of forms or strategies, I will not proceed with this purchase, and any purchase that I do make will be null and void.
- 3. I understand that these Terms require the use of arbitration on an individual basis to resolve disputes, rather than jury trials or class actions, and also limit the remedies available to me in the event of a dispute as described in the LegalZoom Arbitration Agreement, contained in Paragraph 16 of these Terms of Service.**
- 4.** I UNDERSTAND THAT THE LEGALZOOM REVIEW OF MY ANSWERS IS LIMITED TO COMPLETENESS, SPELLING, AND FOR INTERNAL CONSISTENCY OF NAMES, ADDRESSES, AND THE LIKE. I WILL READ THE FINAL DOCUMENT(S) BEFORE SIGNING IT AND AGREE TO BE SOLELY RESPONSIBLE FOR THE FINAL DOCUMENT(S).
- 5. Accuracy of Information and Third-Party Consent.** To the best of my knowledge, I have provided accurate information to LegalZoom and have obtained all third-party consents required for my order.
- 6. Electronic Records and Signatures.** I give LegalZoom consent to affix my electronic signature where required to file my documents. I understand I may withdraw my consent, provided my documents have not already been filed, by calling LegalZoom Customer Care at (800) 773-0888.
- 7. Non-English-Speaking Customers.** I understand that certain materials on the LegalZoom site, including but not limited to questionnaires, documents, instructions, and filings, are only available in English.
- 8. Limitation of Liability and Indemnification.** EXCEPT AS PROHIBITED BY LAW, I WILL HOLD LEGALZOOM AND ITS OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS HARMLESS FOR ANY INDIRECT, PUNITIVE, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGE, HOWEVER IT ARISES (INCLUDING ATTORNEYS' FEES AND ALL RELATED COSTS AND EXPENSES OF LITIGATION AND ARBITRATION, OR AT TRIAL OR ON APPEAL, IF ANY, WHETHER OR NOT LITIGATION OR ARBITRATION IS INSTITUTED), WHETHER IN AN ACTION OF CONTRACT, NEGLIGENCE, OR OTHER TORTIOUS ACTION, OR ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, INCLUDING WITHOUT LIMITATION ANY CLAIM FOR PERSONAL INJURY OR PROPERTY DAMAGE, ARISING FROM THIS AGREEMENT AND ANY VIOLATION BY ME OF ANY FEDERAL, STATE, OR LOCAL LAWS, STATUTES, RULES, OR REGULATIONS, EVEN IF LEGALZOOM HAS BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. EXCEPT AS PROHIBITED BY LAW, IF THERE IS LIABILITY FOUND ON THE PART OF LEGALZOOM, IT WILL BE LIMITED TO THE AMOUNT PAID FOR THE PRODUCTS AND/OR SERVICES AND UNDER NO CIRCUMSTANCES WILL THERE BE CONSEQUENTIAL OR PUNITIVE DAMAGES. SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE PRIOR LIMITATION OR EXCLUSION MAY NOT APPLY TO ME. THIS PARAGRAPH DOES NOT APPLY TO NORTH CAROLINA CONSUMERS.
- 9. Terms of Use.** I understand that the Site's general terms of use (the "Terms of Use") also apply to these Terms of Service and in agreeing to these Terms of Service, I acknowledge that I have read and agree to those [Terms of Use](#), which are incorporated herein by reference.
- 10. Additional LegalZoom Terms.** I understand that my purchase may be subject to additional terms and conditions. I understand that LegalZoom Registered Agent Services, are subject to the [Supplemental Terms of Service for Registered Agent Services](#), legal plans are subject to the [Legal Plan Contract](#), and/or any limited scope agreements specified in your service, and subscription and third-party services are subject to the [Supplemental Terms for Subscriptions and Third-Party Services](#). If applicable, I acknowledge that I have read and agree to the supplemental terms, which are incorporated herein by reference.
- 11. Third Party Services.** If I purchased a product that involves third party services, I understand that I may be required to accept additional terms located on the third party's site. The third party may contact me by email and/or phone with instructions on how to access my benefits. LEGALZOOM HEREBY DISCLAIMS LIABILITY FOR ANY INFORMATION, MATERIALS, PRODUCTS OR SERVICES POSTED OR OFFERED AS PART OF ANY THIRD PARTY SERVICES. LEGALZOOM IS NOT LIABLE FOR ANY FAILURE OF PRODUCTS OR SERVICES OFFERED OR ADVERTISED AT THOSE SITES. A THIRD PARTY MAY HAVE A PRIVACY POLICY DIFFERENT FROM THAT OF LEGALZOOM AND THE THIRD PARTY WEBSITE MAY PROVIDE LESS SECURITY THAN THE LEGALZOOM SITE.
- 12. Future Products and Services.** If I choose to add a product or service to my order subsequent to this initial purchase, these Terms of Service will apply to that additional product or service purchase as well.
- 13. Abandoned Orders.** My purchase allows me to create my own legal documents. I understand that, other than as required by applicable law, I shall have no right to cancel, request a cash refund or obtain store credit for any undelivered order after 120 days have elapsed from the purchase date unless LegalZoom is at fault. All itemization of fees are displayed for convenience only. Delivered orders shall be governed by the LegalZoom [Satisfaction Guarantee](#). Both parties acknowledge that LegalZoom is out of pocket time and money for undertaking the work and

both parties fully intend to complete the order. Abandoned orders will result in liquidated damages equal to the amount paid to LegalZoom for reimbursement of our commitment to service this order.

**14. Exchanges.** I understand that I may request an exchange of one product for a different product and complete a replacement order within 60 days of my purchase. The purchase price of the original item, less any filing fees, taxes or other third-party costs, will be credited to my LegalZoom account. Any price difference between the original order and the replacement order or, if a replacement order is not completed within 60 days of purchase, the full original purchase price (in each case less any filing fees, taxes or other third-party costs) will be credited to my original form of payment. If I paid for my original order by check, I understand that LegalZoom will mail a check for the applicable amount to my billing address.

**15. Suspended Accounts.** If LegalZoom encounters evidence of suspicious activity in connection with my account, including, but not limited to, evidence that my account is being used by someone who is not authorized to do so, I acknowledge that LegalZoom, in its sole discretion, may opt to temporarily disable my account for a reasonable amount of time in order to investigate. In the event that LegalZoom disables my account, I understand that, absent a subpoena or court order, no information about my account will be provided to anyone outside LegalZoom, including me or any authorized contact, until the investigation is complete. Additionally, I understand that LegalZoom, in its sole discretion, may decide not to send any documents associated with my account to me or file any such documents with any government authority, while my account is disabled. I acknowledge that LegalZoom will not be liable for any delays caused by these policies and procedures.

#### **16. DISPUTE RESOLUTION BY BINDING ARBITRATION.**

Please read this carefully. It affects your rights.

Summary:

Most customer concerns can be resolved quickly and to the customer's satisfaction by calling our Customer Care Center at (800) 773-0888. **In the unlikely event that the LegalZoom Customer Care Center is unable to resolve your complaint to your satisfaction (or if LegalZoom has not been able to resolve a dispute it has with you after attempting to do so informally), we each agree to resolve those disputes through binding arbitration or in small claims court rather than in a court of general jurisdiction.** Arbitration is less formal than a lawsuit in court. Arbitration uses a neutral arbitrator instead of a judge or jury, allows for more limited discovery than a court does, and is subject to very limited review by courts. **Any arbitration under these Terms will take place on an individual basis; class arbitrations and class actions are not permitted.** While in some instances, upfront costs to file an arbitration claim may exceed similar costs to bring a case in court, for any non-frivolous claim that does not exceed \$75,000, LegalZoom will pay all costs of the arbitration. Moreover, in arbitration you may recover attorney's fees from LegalZoom to the same extent or more as you would in court. The arbitrator shall apply the same limitations period that would apply in court.

Under certain circumstances (as explained below), LegalZoom will pay you more than the amount of the arbitrator's award and will pay your attorney (if any) his or her reasonable attorney's fees if the arbitrator awards you an amount greater than what LegalZoom offered you to settle the dispute.

You may speak with independent counsel before using this Site or completing any purchase.

#### **Arbitration Agreement:**

(a) LegalZoom and you agree to arbitrate **all disputes and claims** between us before a single arbitrator. The types of disputes and claims we agree to arbitrate are intended to be broadly interpreted. It applies, without limitation, to:

- claims arising out of or relating to any aspect of the relationship between us, whether based in contract, tort, statute, fraud, misrepresentation, or any other legal theory;
- claims that arose before these or any prior Terms (including, but not limited to, claims relating to advertising);
- claims that are currently the subject of purported class action litigation in which you are not a member of a certified class; and
- claims that may arise after the termination of these Terms.

For the purposes of this Arbitration Agreement, references to "LegalZoom," "you," and "us" include our respective subsidiaries, affiliates, agents, employees, business partners, predecessors in interest, successors, and assigns, as well as all authorized or unauthorized users or beneficiaries of services or products under these Terms or any prior agreements between us. Beneficiaries include, but are not limited to, those named in an estate planning document.

Notwithstanding the foregoing, either party may bring an individual action in small claims court. This arbitration agreement does not preclude your bringing issues to the attention of federal, state, or local agencies. Such agencies can, if the law allows, seek relief against us on your behalf. **You agree that, by entering into these Terms, you and LegalZoom are each waiving the right to a trial by jury or to participate in a class action.** These Terms evidence a transaction or website use in interstate commerce, and thus the Federal Arbitration Act ("FAA") governs the interpretation and enforcement of this provision. This arbitration provision will survive termination of these Terms.

(b) A party who intends to seek arbitration must first send, by U.S. certified mail, a written Notice of Dispute ("Notice") to the other party. A Notice to LegalZoom should be addressed to: Notice of Dispute, General Counsel, LegalZoom.com, Inc., 101 North Brand Blvd., 11th Floor, Glendale, CA 91203 (the "Notice Address"). The Notice must (a) describe the nature and basis of the claim or dispute and (b) set forth the specific relief sought ("Demand"). If LegalZoom and you do not reach an agreement to resolve the claim within 30 days after the Notice is received, you or LegalZoom may commence an arbitration proceeding. During the arbitration, the amount of any settlement offer made by LegalZoom or you shall not be disclosed to the arbitrator until after the arbitrator determines the amount, if any, to which you or LegalZoom is entitled.

You may download or copy a form Notice from <http://www.legalzoom.com/arbitration-forms.pdf>.

You may download or copy a form to initiate arbitration from the AAA website at [http://www.adr.org/aaa/ShowPDF?doc=ADRSTG\\_015820](http://www.adr.org/aaa/ShowPDF?doc=ADRSTG_015820). (There is a separate form for California residents, also available on the AAA's website at [http://www.adr.org/aaa/ShowPDF?doc=ADRSTG\\_015822](http://www.adr.org/aaa/ShowPDF?doc=ADRSTG_015822).)

(c) After LegalZoom receives notice at the Notice Address that you have commenced arbitration, it will promptly reimburse you for your payment of the filing fee, unless your claim is for more than \$75,000. (Currently, the filing fee for consumer-initiated arbitrations is \$200, but this is subject to change by the arbitration provider. If you are unable to pay this fee, LegalZoom will pay it directly after receiving a written request at the Notice Address.) The arbitration will be governed by the Consumer Arbitration Rules (the "AAA Rules") of the American Arbitration Association (the "AAA"), as modified by these Terms, and will be administered by the AAA. The AAA Rules are available online at [www.adr.org](http://www.adr.org) or by calling the AAA at 1-800-778-7879. (You may obtain information about the arbitration process directed to non-lawyers, including information about providing notice to LegalZoom, at <http://www.legalzoom.com/arbitration-information.pdf>.) The arbitrator is bound by these Terms. All issues are for the arbitrator to decide, except that issues relating to the scope, enforceability, and interpretation of the arbitration provision and the scope, enforceability, and interpretation of paragraph (f) are for the court to decide. Unless LegalZoom and you agree otherwise, any arbitration hearings will take place in the county (or parish) of your contact address. If your claim is for \$10,000 or less, you may choose whether the arbitration will be conducted solely on the basis of documents submitted to the arbitrator, by a telephonic hearing, or by an in-person hearing as established by the AAA Rules. If you choose to proceed either in person or by telephone, we may choose to respond only by telephone or submission. If your claim exceeds \$10,000, the AAA Rules will determine whether you have a right to a hearing. The parties agree that in any arbitration of a dispute or claim, neither party will rely for preclusive effect on any award or finding of fact or conclusion of law made in any other arbitration of any dispute or claim to which LegalZoom was a party. Except as otherwise provided for herein, LegalZoom will pay all AAA filing, administration, and arbitrator fees for any arbitration initiated in accordance with the notice requirements above. If, however, the arbitrator finds that either the substance of your claim or the relief sought in the Demand is frivolous or brought for an improper purpose (as measured by the standards set forth in Federal Rule of Civil Procedure 11(b)), then the payment of all such fees will be governed by the AAA Rules. In such case, you agree to reimburse LegalZoom for all monies previously disbursed by it that are otherwise your obligation to pay under the AAA Rules. In addition, if you initiate an arbitration in which you seek relief valued at more than \$75,000 (excluding attorney's fees and expenses), the payment of these fees will be governed by the AAA rules.

(d) If, after finding in your favor in any respect on the merits of your claim, the arbitrator issues you an award that is greater than the value of LegalZoom's last written settlement offer made before an arbitrator was selected, then LegalZoom will:

- pay you either the amount of the award or \$2,000 ("the alternative payment"), whichever is greater; and
- pay your attorney, if any, the amount of attorney's fees, and reimburse any expenses (including expert witness fees and costs), that your attorney reasonably accrues for investigating, preparing, and pursuing your claim in arbitration (the "attorney's payment").

If LegalZoom did not make a written offer to settle the dispute before an arbitrator was selected, you and your attorney will be entitled to receive the alternative payment and the attorney's fees, respectively, if the arbitrator awards you any relief on the merits. The arbitrator may make rulings and resolve disputes as to the payment and reimbursement of fees, expenses, and the alternative payment and the attorney's fees at any time during the proceeding and upon request from either party made within 14 days of the arbitrator's ruling on the merits. In assessing whether an award that includes attorney's fees or expenses is greater than the value of LegalZoom's last written settlement offer, the arbitrator shall include in his or her calculations only the value of any attorney's fees or expenses you reasonably incurred in connection with the arbitration proceeding before LegalZoom's settlement offer.

(e) The right to attorney's fees and expenses discussed in paragraph (d) supplements any right to attorney's fees and expenses you may have under applicable law. Thus, if you would be entitled to a larger amount under applicable law, this provision does not preclude the arbitrator from awarding you that amount. However, you may not recover duplicative awards of attorney's fees or costs. Although under some laws LegalZoom may have a right to an award of attorney's fees and expenses if it prevails in an arbitration proceeding, LegalZoom will not seek such an award.

(f) The arbitrator may award injunctive relief only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by that party's individual claim. YOU AND LEGALZOOM AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITIES AND NOT AS PLAINTIFFS OR CLASS MEMBERS IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING OR IN THE CAPACITY OF A PRIVATE ATTORNEY GENERAL. Further, unless both you and LegalZoom agree otherwise, the arbitrator may not consolidate more than one person's

claims, and may not otherwise preside over any form of a representative or class proceeding. The arbitrator may award any relief that a court could award that is individualized to the claimant and would not affect other customers. Neither you nor we may seek non-individualized relief that would affect other customers. If a court decides that applicable law precludes enforcement of any of this paragraph's limitations as to a particular claim for relief, then that claim (and only that claim) must be severed from the arbitration and may be brought in court.

(g) If the amount in dispute exceeds \$75,000 or either party seeks any form of injunctive relief, either party may appeal the award to a three-arbitrator panel administered by AAA by a written notice of appeal within thirty (30) days from the date of entry of the written arbitration award. An award of injunctive relief shall be stayed during any such appeal. The members of the three-arbitrator panel will be selected according to AAA rules. The three-arbitrator panel will issue its decision within one hundred and twenty (120) days of the date of the appealing party's notice of appeal. The decision of the three-arbitrator panel shall be final and binding, subject to any right of judicial review that exists under the FAA.

(h) Notwithstanding any provision in the applicable Terms to the contrary, we agree that if we make any future change to this arbitration provision (other than a change to any notice address, website link or telephone number provided herein), that change will not apply to any dispute of which we had written notice on the effective date of the change. Moreover, if we seek to terminate this arbitration provision, any such termination will not be effective until at least thirty (30) days after written notice of such termination is provided to you, and shall not be effective as to disputes which arose prior to the date of termination.

#### 17. Installment Plan.

(a) **Qualification.** The LegalZoom Installment Plan (the "Installment Plan") is available as a purchase option for certain LegalZoom products priced at \$200 or more.

(b) **Billing.** By opting into the Installment Plan, I am agreeing to make an initial payment (the "Initial Installment Payment") immediately when I place my order or change my payment plan. I hereby authorize LegalZoom to charge my credit card for two additional installments on approximately, but not before, the first and second month anniversaries (each an "Installment Billing Date") of the Initial Installment Payment. If my purchase date is on the 29th through 31st day of any month, an Installment Billing Date for months with fewer days will fall on the last day of the month. Each payment will be of the same amount, except that if the total purchase price does not divide evenly into three parts, my final installment payment will include all outstanding amounts. I understand that I may pay my outstanding balance at any time without incurring additional charges.

(c) **Default.** If my credit card is declined, I agree that LegalZoom may make up to five attempts to bill that card over a 30 day period. If I remain in default on the second payment when the third payment is due, I authorize LegalZoom to charge both the second and third payment amounts to my credit card. If three attempts to charge my card are unsuccessful and my account balance remains unpaid, I understand that LegalZoom may report information about my account to credit bureaus, and that late payments, missed payments, and other defaults may be reflected in my credit report. I understand that LegalZoom may restrict my ability to purchase other LegalZoom products if I am delinquent on any payment. I understand that LegalZoom may make efforts to collect a delinquent payment. I understand that if I believe LegalZoom has reported inaccurate information to a consumer reporting agency, I may call the LegalZoom Customer Care Center at (800) 773-0888 and LegalZoom will investigate the matter. I understand that LegalZoom may accept late or partial payments, as well as payments that reflect "paid in full" or other restrictive endorsements, without limiting any of its rights under these Terms of Service.

(d) **Store Credit.** I understand that if I have a LegalZoom store credit, the amount of that store credit will be deducted from my total purchase price before installment payment amounts are calculated. Store credit will not count against the \$200 minimum purchase price per product. If I want to apply a store credit issued after my enrollment in the Installment Plan, I may do so by calling the LegalZoom Customer Care Center at (800) 773-0888.

(e) **Notice of Automatic Billing.** LegalZoom may send a reminder email to the email address of record for my account before my Installment Billing Dates. I acknowledge and agree that this notice is provided as a courtesy only, and LegalZoom is not obligated or required to provide such notice. I acknowledge and agree that (i) my failure to read, (ii) my inability to receive, or (iii) the failure of LegalZoom to send the email does not create any liability on the part of LegalZoom or any third-party service provider.

(f) **Disputed Charges.** I understand that if I dispute a charge to my credit card, I should call the LegalZoom Customer Care Center immediately at (800) 773-0888 and LegalZoom will investigate the matter.

(g) **Account Information.** I agree to notify LegalZoom immediately of any changes to my credit card number, its expiration date, and/or my billing address, or if my credit card expires or is cancelled for any reason. I understand that if my failure to provide LegalZoom with accurate, complete, and current information results in delinquent payments, LegalZoom may restrict my ability to purchase other LegalZoom products, report information about this delinquency to credit bureaus, and/or pursue further collection efforts.

(h) **Subscription Products.** For subscription products offering the Installment Plan, LegalZoom reserves the right to terminate access to subscription benefits 31 days after a missed installment payment.

**18. Filing Fees.** Except as otherwise noted, filing and recording fees may include all mandatory or applicable federal, state, county and local administrative fees, name reservation fees, initial reports, publication notices, capitalization fees, franchise tax fees, expedite fees, certified copy fees, walk-in fees, courier fees and other transactional fees incurred on your behalf by LegalZoom.

**19. Trademark Filing Fee:** The government filing fee for trademarks can range from \$225 to \$400 per class. In order to save customers' money, LegalZoom files using either the TEAS RF system or the TEAS Plus system. Among

other things, these require electronic communications with and responses to the USPTO. The fee you see from LegalZoom consists of the government TEAS RF electronic filing fee of \$275. If the stricter "TEAS Plus" system can be used for your application, LegalZoom will use this system. The TEAS Plus system streamlines the U.S. Patent and Trademark Office (USPTO) review process and has a lower filing fee of \$225, but requires additional LegalZoom labor to process. If we are able to use the TEAS Plus system for your application, LegalZoom will still charge \$275, of which \$225 will be allocated to the USPTO fee and \$50 to a LegalZoom processing fee. Whichever filing system used, if you later decide that you do not want to communicate with the USPTO via email, you do not want to file responses and documents electronically with the USPTO, or if the USPTO determines that you do not fit the applicable filing and examination requirements, the USPTO may charge you an extra \$125 processing fee per class. This fee, if any, will be assessed directly by the USPTO. LegalZoom will not pay it on your behalf.

**20. Trademark, Copyright, and Patent Submitted Material.** As part of an order for certain trademark, copyright, and patent products, I may be required to submit to LegalZoom materials – such as specimens, drawings, or copies of my work – in order for it to complete my order and submit my document(s) to the relevant government office. Furthermore, I understand that while it may retain digital copies of my submission, LegalZoom does not retain physical copies of my submissions and will not return those materials to me. All physical materials that LegalZoom does not submit to government offices as part of my application will be securely destroyed.

**21. Authority to File Trademark, Copyright, and Patent Applications.**

(a) **Trademark and Patent.** By placing my order, I give LegalZoom the express authority to file my application with the USPTO. After placing my order, LegalZoom may send me material to review or contact me for information regarding my order. In either case, if I do not respond to LegalZoom within 7 days, it may file my application to avoid filing delays. I understand that I may be contacted by the USPTO for other information after my application has been filed.

(b) **Trademark TEAS Electronic Filing and Communications.** LegalZoom may authorize the USPTO, on my behalf, to contact me at the email address I have provided in my order. I agree to submit documents and communications electronically using the USPTO TEAS system. I understand that if I fail to comply with these requirements, the USPTO may charge me an additional \$125 processing fee per class and that LegalZoom will not pay it on my behalf.

(c) **Copyright.** By placing my order, I give LegalZoom the express authority to file my application with the U.S. Copyright Office. After placing my order, LegalZoom may send me material to review or contact me for information regarding my order. In either case, if I do not respond to LegalZoom within 60 days, it may file my application to avoid filing delays. I understand that I may be contacted by the U.S. Copyright Office for other information after my application has been filed.

**22. LegalZoom Trademark Search.**

Each LegalZoom trademark search includes information about "active" federal trademarks (i.e., those displaying a status of "LIVE," "PENDING," "PENDING - INITIALIZED," "PENDING - PASSED BY EXAMINER," "PUBLISHED FOR OPPOSITION," "ALLOWED - INTENT TO USE," "PENDING - SUSPENDED," or "REGISTERED") as available in the U.S. Patent and Trademark Office (USPTO) website database at the time the search is conducted. A LegalZoom trademark search does not include information about "inactive" trademarks (i.e., those displaying a status of "DEAD," "ABANDONED," "ABANDONED - MISASSIGNED SERIAL NUMBER," "ABANDONED - NO STATEMENT OF USE," "ABANDONED - VOLUNTARY," "CANCELLED," "CANCELLED - SEC. 8," "CANCELLED - SEC. 18," or "EXPIRED") although marks with these statuses can, in certain circumstances, affect the registrability of your mark and/or your ability to use it in commerce. Active trademarks are those either currently pending or registered and presumed up-to-date with the USPTO, and can be used as a bar to a new trademark registration. Generally, inactive marks will not be used to bar a new trademark registration, although an abandoned application can be revived under certain circumstances. Moreover, an individual may claim common law rights because of its commercial use of a trademark. Without limitation, LegalZoom accepts no responsibility or liability for any impact that any inactive application or registration, or common law use, may have on your registration or trademark.

LegalZoom strives to provide customers with the most thorough and up-to-date search results through the best available technology and trained search specialists. Accordingly, I understand that it takes all reasonable steps to ensure that the accuracy and completeness of searches is the best possible using its resources, including existing databases and personnel. For due diligence purposes, trademark customers should thoroughly examine the search report and review to ensure that they are satisfactory and accurate before making any decisions regarding their trademark(s).

**23. Delivery.** I understand that LegalZoom uses a variety of methods to deliver finished products. For products delivered via physical shipment, I understand that LegalZoom uses a variety of carriers for each shipping option and will choose a delivery method for the shipping option and address I designate. If I select overnight delivery or two-day delivery, I agree that LegalZoom may use air or ground shipping as necessary to get my items to me within the promised time frame. The shipping fee indicated does not necessarily represent the actual amount paid by LegalZoom to the carrier chosen for the delivery of my order. It may include, in addition to the fees paid to the carrier, LegalZoom or third party handling and processing fees. For products delivered electronically, I understand that I will be notified via email when my product is complete and available for download. I understand that I may access my product by logging in to My Account.

**24. Reviews.** After your purchase, you may receive an email survey request from LegalZoom. You may also write a review on the Site. If you complete the survey or submit a review, your opinions may be posted, in whole or in part, on the Site or used in marketing material. The review may be accompanied by limited identifying information, such as your first name and last initial, the product you purchased, your gender, city and/or state, and age range.

**25. Access to World Wide Web; Internet Delays.** To use LegalZoom services, I must obtain access to the World Wide Web, either directly or through devices that access web-based content, and pay any service fees associated with such access. I am responsible for providing all equipment necessary to make such connection to the World Wide Web, including a computer and Internet access. Access to certain LegalZoom services may be limited or delayed

based on problems inherent in the use of Internet and electronic communications. I understand that LegalZoom is not responsible for delays, delivery failures, or other damage resulting from such problems.

**26. Force Majeure.** LegalZoom shall not be considered in breach of or default under these Terms of Service or any contract with me, and shall not be liable to me for any cessation, interruption, or delay in the performance of its obligations hereunder by reason of earthquake, flood, fire, storm, lightning, drought, landslide, hurricane, cyclone, typhoon, tornado, natural disaster, act of God or the public enemy, epidemic, famine or plague, action of a court or public authority, change in law, explosion, war, terrorism, armed conflict, labor strike, lockout, boycott or similar event beyond our reasonable control, whether foreseen or unforeseen (each a "Force Majeure Event"). If a Force Majeure Event continues for more than 60 days in the aggregate, LegalZoom may immediately terminate these Terms of Service and shall have no liability to me for or as a result of any such termination.

**27. Right to refuse.** I acknowledge that LegalZoom reserves the right to refuse service to anyone.

**28.** I acknowledge that LegalZoom is not a registered or bonded legal document assistant under California Business and Profession Code, sections 6400 et seq. LegalZoom.com, Inc. is located at 9900 Spectrum Drive, Austin, Texas 78717.

**29.** I acknowledge that I have had the opportunity to view sample templates of LegalZoom documents and may call LegalZoom Customer Care at (800)773-0888 with questions or for assistance locating sample templates.

**30.** I understand that these terms affect my legal rights and obligations. If I do not agree to be bound by all of these terms, I will not use this service. By proceeding with my purchase, I agree to these Terms of Service.

Updated 7/27/17

Get helpful tips and info from our newsletter!

*your email address*



*view our current issue...*

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OCT 9, 2017 @ 12:30 PM 1,240 

# How LegalZoom Provides Businesses With Affordable Legal Assistance



Amit Chowdhry, CONTRIBUTOR

I cover noteworthy technology, startups and gadgets [FULL BIO](#) 

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When you are running a business, it can be a challenge to handle some of the nitty gritty details such as filing trademarks and handling copyright protections.

[LegalZoom](#) simplifies those processes by providing legal help and services for only \$300 per year, depending on your legal plan.

By providing substantial value at a low cost, LegalZoom CEO John Suh told me that nearly 4 million small businesses and families have trusted the company since it launched in 1999. And LegalZoom is the largest former of small businesses, the largest filer of trademarks at 250,000+ and the company's [network of independent attorneys](#) can provide advice in all 50 states. Plus LegalZoom owns a law firm in the U.K. with over 200 employees.



LegalZoom

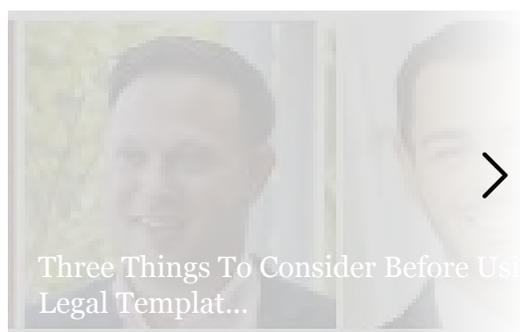
LegalZoom CEO John Suh

Suh said that LegalZoom was founded on the principle that access to quality legal help is a basic fundamental right. Suh told me that the majority of Americans “have a doctor they can turn to when life throws them a curve ball.” However, only the top 5% of small business owners or families have a law firm that they can reach out to at a moment’s notice. “We believe in a world where everyone has a trusted lawyer, someone who can not only handle the unexpected but proactively help to protect the things people value the most,” said Suh in an interview.

LegalZoom started with only \$1 million in angel funding. “I’m most proud of the human potential we’ve been able to unlock within our team of Zoomers. We’ve created a team focused on continuous learning, and we execute with a creative, strategic mindset. Realizing that evolution is a collaborative effort and minimizing fear of failure has allowed us to be nimble in an industry known for stagnancy,” added Suh in the interview.

Suh described himself as a “supply chain geek,” who has been fascinated by how technology would transform manufacturing and distribution across many industries. Over the last 20 years, Suh has run Internet companies that had interesting supply chain approaches to the fashion, consumer electronics, and legal industries. Prior to heading up LegalZoom, Suh was the CEO of the Internet division of Li and Fung called StudioDirect. And before that, he co-founded and worked as CEO of Castling Group.

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### LegalZoom Customers

I asked Suh if he could share any interesting stories about LegalZoom customers. A couple of customers that came to mind included GORUCK and Chi’Lantro. GORUCK is a rugged backpack brand and Chi’Lantro Korean Mexican fusion mobile truck company.

GORUCK was started by a former 10th Special Forces staff sergeant named Jason McCarthy. McCarthy was unemployed, nearly broke, recently divorced and was having a hard time adapting to civilian life. McCarthy said that the only thing keeping him going was Java, his chocolate Labrador dog. When McCarthy thought about the heavy-duty survival packs that his fellow soldiers carried around in Iraq as an exercise called “rucking,” a lightbulb in his head turned on. McCarthy founded GORUCK and turned to LegalZoom for legal help. GORUCK pulled in total revenues of \$15 million in equipment sales and live events last year. And McCarthy now gives back to the military community by hiring veterans at GORUCK and his nonprofit Java Forever in memory of his first chocolate lab dog.

Chi'Lantro was founded by Jae Kim, who immigrated from Seoul to the U.S. at age 12. As of seven years ago, Jim had \$30,000 in savings and a maxed out credit card. With his savings, he decided to purchase a food truck and established a Korean Mexican fusion mobile truck company called Chi'Lantro. As the son of a single mother, Kim often spent time cooking while he mom was at work. To launch his company, Kim turned to LegalZoom to help set up an LLC. Even though Chi'Lantro had a slow start in Austin, Texas, he was able to raise \$600,000 from Barbara Corcoran on the TV show Shark Tank. Now Chi'Lantro has 4 locations in Austin, Texas and there are plans to expand in Dallas, Houston and San Antonio.

“We literally have millions of conversations each year with small business owners. Drive and passion are recurring themes. Business owners want to take care of legal matters quickly and efficiently so they can get back to the all-consuming job of running their business,” explained Suh.

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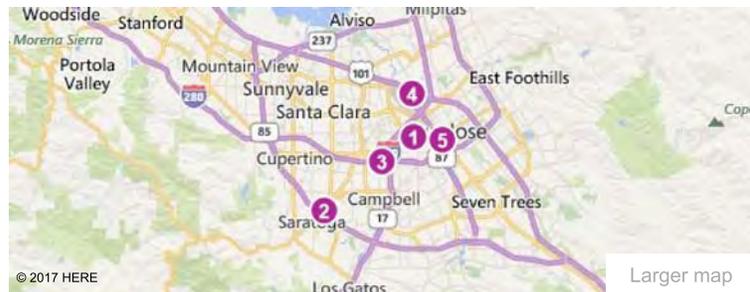
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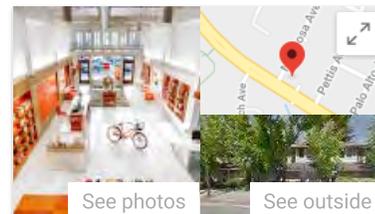
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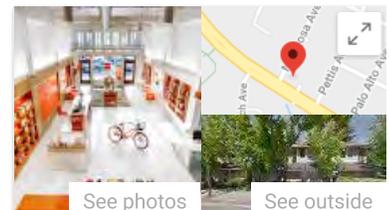
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# EXHIBIT T



## Do You Need a Lawyer to File a Trademark?



by Jane Haskins, Esq.  
Freelance writer

You can search for existing trademarks and prepare and file a trademark application using online tools on the U.S. Patent and Trademark Office (USPTO) website or through another online trademark service—without the assistance of a lawyer.

While the application process can be done on your own, there are certain procedures and formatting requirements that you must follow, and you must choose the correct filing basis and description for your products or services. If your application is not prepared properly, it may be refused or delayed.

### When You Need a Lawyer

In some instances, it is a good idea to consult with a lawyer, either before, during or after the [trademark registration](#) process. Reasons to contact a lawyer include:

- You have conducted a trademark search and are concerned that there might be a likelihood of confusion between your mark and another mark that is already registered or for which there is a pending registration application. A [trademark lawyer](#) can advise you on the chances that your trademark application will be refused due to confusion with the competing mark or can help you revise your application so it will be more likely to gain approval.
- You have questions about trademarks or trademark registration that are not answered by the USPTO website or other online resources.
- You anticipate filing foreign trademarks as well as a U.S. trademark and you want assistance from someone with expertise in foreign trademark laws.
- You need to respond to a refusal to register or an Office action.
- You believe that someone else is using your trademark without your permission. Trademark owners are responsible for enforcing their trademarks. Failure to protect your trademark can lead to assumptions that the owner has abandoned the mark or consented, even informally, to its misuse. A lawyer can help you maintain your rights and advise you on how to respond to a possible infringement and how to properly file a lawsuit on your behalf.

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If you do decide to hire a lawyer, you should look for someone who has experience conducting and evaluating trademark searches, filing applications with the USPTO, and enforcing trademark rights. Finding an attorney who has worked on trademarks in your particular industry may also be important, as there may be industry-specific knowledge that will help your application get accepted more easily. You will also want to make sure that the attorney will be the one handling your application, and that they won't be passing it off to a paralegal.

In searching for a **trademark attorney**, you may come across businesses that offer services for trademark applications that are less expensive. However, it is highly advised that you hire a licensed attorney, as she will be more knowledgeable regarding trademark laws.

The USPTO does not recommend attorneys or provide lists of attorneys. Your local bar association may have a directory of attorneys or a lawyer referral service that can help you find a lawyer with expertise in trademark matters.

*Ready to [register a trademark](#)? LegalZoom can help. LegalZoom's attorney-led trademark registration services allow you to register a trademark with the help of an attorney. With attorney-led trademark services, an attorney will contact you to learn more about your product or service and begin a comprehensive trademark search. Once an attorney has reviewed your information and prepared your trademark application, he/she will send it to you to approve. Your team of attorneys will be there to answer your questions, monitor the progress of your application, and take action when necessary.*



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Once your application is done, we'll get it into the right hands at the U.S. Patent & Trademark Office, so all you have to do is wait for their response.

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A trademark typically protects names, words, slogans and symbols that identify a business or brand and distinguishes it from others. Trademarks include brand names such as "Coca-Cola" and symbols such as Nike's famous "swoosh."

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## What are the benefits of registering a trademark?

Federal registration provides several advantages, including giving you a legal presumption of ownership and exclusive rights to use the mark nationwide in connection with your goods or services. It also gives you the right to bring a federal suit against anyone who may be infringing on your mark, and allows you to use the coveted ® symbol.

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## What can you trademark?

- A name, such as your company's name or a line of products.
- A logo or other symbol or design used to create brand recognition.
- A slogan or other phrase used in connection with your brand.

## What can't you trademark?

- A creative work such as a book, film, song, or theatrical performance is generally protected by a copyright.
- An invention, mechanical device, business method, or process is generally protected by a utility patent.
- An idea itself can't be protected, though it may be eligible for a copyright or patent once it's manifest in tangible form.

Copyright, trademark and patent: what's the difference?



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### Apply for Trademark Registration with LegalZoom

A federally registered trademark can protect your brand nationwide. By trademarking a business name, logo, company phrase or other slogan with the U.S. Patent and Trademark Office (USPTO), you establish a legal presumption of ownership and an exclusive right to use the trademark nationwide. Federal trademark registration lists your trademark in the USPTO's online databases and allows you to use the ® symbol, which essentially notifies the public that you own the trademark. Trademark registration also allows the trademark owner to bring action against infringers in federal court. In just a few simple steps, LegalZoom can help you create and file a trademark application with the USPTO. The process begins by answering a few questions and providing a sample of your mark. We perform a trademark search, create your trademark application, and file the application with the USPTO. The USPTO will review your application and make a decision whether to approve it or not and you will be notified of their decision. Start protecting your brand by applying to register a trademark through LegalZoom today.

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- Full names. We verify that full names are given (first and last) and that all names appear consistently throughout the document.

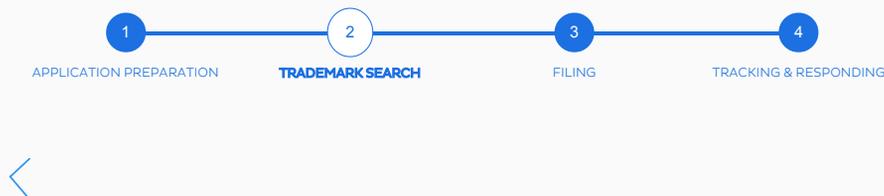
\* Not available in Missouri

\*\* Not all products are checked for all elements. Trademark art, for example, often includes different spelling, capitalization, abbreviations, etc. that are intentional. So for this product, these elements would not be reviewed.

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<b>Trademark Paperwork</b> You'll get a digital copy of your application for your records	✓	✓
<b>Trademark Consultations</b> You'll speak with a trademark specialist and independent trademark attorney who will discuss your trademark with you before completing and filing your application with the USPTO	✓ (\$299 value)	✗
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<b>Basic Office Action Response</b> A trademark attorney will respond to a basic Office action if the USPTO rejects your application and needs more information	(\$199 value)	
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## How it works



**We'll perform a trademark search**

Searching for marks that may be similar to yours is important. Knowing how to interpret the results is even more so. We have basic and comprehensive search options so you can see if there are any pre-existing marks that could lead to the denial of your application or other legal issues.

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When you select our trademark service with attorney help, you get a comprehensive search and your trademark attorney will analyze the results and advise on what to do next. If the attorney discovers any direct conflicts, another search on a new or different mark is included.

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- > What are trademark classes and why are they important?
- > How long does it take for a trademark to be registered?
- > What is an Office action and how does it affect an application?

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Our agents are based in the United States.

<sup>1</sup>Consists of the government discounted TEAS RF electronic filing fee of \$275. If the stricter "TEAS Plus" system can be used for your application, you will be refunded \$50 to account for the lower filing fee of \$225. The USPTO may later charge a \$125 fee should you choose not to communicate with them electronically or otherwise do not meet the requirements of the discounted TEAS RF or TEAS Plus filing requirements.

<sup>2</sup>Consists of the government discounted TEAS RF electronic filing fee of \$275. If the stricter "TEAS Plus" system can be used for your application, LegalZoom will use this system. The TEAS Plus system streamlines the U.S. Patent and Trademark Office (USPTO) review process and has a lower filing fee of \$225, but requires additional LegalZoom labor to process. If the TEAS Plus system can be used for your application, LegalZoom will still charge \$275, of which \$225 will be allocated to the USPTO fee and \$50 to a LegalZoom processing fee. The USPTO may later charge a \$125 fee should you choose not to communicate with them electronically or otherwise meet the requirements of the discounted TEAS RF or TEAS Plus filing fees.

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# **EXHIBIT W**



United States Patent and Trademark Office  
Trademark Electronic Application System - TEAS Application



Under the Paperwork Reduction Act of 1995 no persons are required to respond to a collection of information unless it displays a valid OMB control number.  
PTO Form 1478 (Rev 09/2006)  
OMB No. 0651-0009 (Exp. 02/28/2018)



## Trademark/Service Mark Application, Principal Register

Version 5.10 - Validation Page

On **Tue Dec 12 15:31:07 EST 2017** You completed all mandatory fields and successfully validated the form. It has NOT been filed to the USPTO at this point. Please complete all steps below to submit the application.

NOTE: For an instructional video on the Validation Page, [click here](#).

■ **STEP 1:** Review the application data in various formats, by clicking on the phrases under Application Data. Use the print function within your browser to print these pages for your own records. If the Mark and Specimens appear huge, click [here](#).

Note: It is important that you review this information for accuracy and completeness now. Corrections after submission may not be permissible, thereby possibly affecting your legal rights.

Note: If you are using the e-signature approach or the handwritten pen-and-ink signature approach, you must click on the final link to access the specific "text form" for that purpose.

### Application Data

- [Input](#)
- [Mark](#)
- [XML File](#)
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■ **STEP 2:** If there are no errors and you are ready to file this application electronically, confirm the e-mail address for acknowledgment. Once you submit the form electronically, we will send an electronic acknowledgment of receipt to the e-mail address entered below. If no e-mail address appears, you must enter one. If we should send the acknowledgment to a different e-mail address, or to an additional address(es), please enter the proper address or additional address(es). For multiple addresses/receipts, please separate e-mail addresses by either a semicolon or a comma.

**NOTE:** This e-mail address is only for the purpose of receiving the acknowledgment that the transmission reached the USPTO, and is not related to the e-mail that will be used for correspondence purposes (although it could be the same address. The official e-mail address that the USPTO will use for any future communication is whatever appears in the specific correspondence section of the form.)

\* E-mail for acknowledgment

To ensure we can deliver your e-mail confirmation successfully, please re-enter your e-mail address(es) here:

\* E-mail for acknowledgment

■ **STEP 3:** Read and check the following:

### Important Notice:

(1) Once you submit this application, we will not cancel the filing or refund your fee. The fee is a processing fee, which we do not refund even if we cannot issue a registration after our substantive review. This is true regardless of how soon after submission you might attempt to request cancellation of the filing. Therefore, please review ALL information carefully prior to transmission.

(2) All information you submit to the USPTO at any point in the application and/or registration process will become public record, including your name, phone number, e-mail address, and street address. By filing this application, you acknowledge that YOU HAVE NO RIGHT TO CONFIDENTIALITY in the information disclosed. The public will be able to view this information in the USPTO's on-line databases and through internet search engines and other on-line databases. This information will remain public even if the application is later abandoned or any resulting registration is surrendered, cancelled, or expired. To maintain confidentiality of banking or credit card information, only enter payment information in the secure portion of the site after validating your form. For any information that may be subject to copyright protection, by submitting it to the USPTO, the filer is representing that he or she has the authority to grant, and is granting, the USPTO permission to make the information available in its on-line database and in copies of the application or registration record.

(3) Be aware that private companies not associated with the USPTO often use trademark application and registration information from the USPTO's databases to [mail or e-mail trademark-related solicitations](#) (samples of non-USPTO solicitations included).

If you have read and understand the above notice, please check the box before you click on the Pay/Submit button.

■ **STEP 4:** If you are ready to file electronically:

Click on the Pay/Submit button below, to access the site where you will select one of three possible payment methods. After successful entry of payment information, you can complete the submission to the USPTO. A valid transaction will result in a screen that says SUCCESS! Also, we will send an e-mail acknowledgment within 24 hours.

**WARNING:** Click on the Pay/Submit button ONLY if you are now entirely prepared to complete the Pay/Submit process. After clicking the button, you can NOT return to the form, since you will have left the TEAS site entirely. Once in the separate payment site, you must complete the Pay/Submit process within 30 minutes. **WARNING:** Fee payments by credit card may not be made from 2 a.m. to 6 a.m. Sunday, Eastern Standard Time. If you are attempting to file during that specific period, you must use either the deposit account or electronic funds transfer payment method.

Pay/Submit

[Burden/Privacy Statement](#) | [TEAS Form Burden Statement](#)

# EXHIBIT X



# Applicants and registrants represented by excluded parties

If the USPTO suspects that a party, whether an individual or a firm, is engaging in unauthorized practice of trademark law or otherwise improper activities before the USPTO, the Commissioner for Trademarks may issue a show-cause order. A show-cause order requires the party to establish the legitimacy of their activities and to explain why they should not be excluded from acting on behalf of others before the USPTO. Depending on the party's response, a show-cause order may be followed by an exclusion order, which formally excludes the party from serving as an attorney, correspondent, domestic representative, and/or signatory in trademark matters before the USPTO.

[Review copies of show-cause orders and exclusion orders issued by the Commissioner for Trademarks](#)

[Get information on unauthorized practice of trademark law and who may practice before the USPTO in trademark matters](#)

Once a party has been excluded, the USPTO will change the correspondence address for each affected application or registration file record to that of the applicant, registrant, or domestic representative, as appropriate, and will notify the affected applicant or registrant that:

- The excluded party is not entitled to practice before the USPTO in trademark matters and, therefore, may not represent the applicant or registrant.
- Any power of attorney granted to the excluded party is void ab initio, meaning it was invalid from the start of any action taken by the excluded party.
- The excluded party may not sign responses to Office actions, authorize examiner's amendments or priority actions, conduct interviews with USPTO employees, or otherwise represent an applicant, registrant, or party to a proceeding before the Office.
- All correspondence concerning the application or registration will be sent to the domestic representative if one has been appointed, or, alternatively, and in most circumstances, to the applicant or registrant at its address of record.

## What to do if the USPTO excluded the party representing you

### (1) Review your application/registration record

Go to the [Trademark Status & Document Retrieval \(TSDR\)](#) system and enter your serial number or registration number to retrieve the record for your application or registration.

### (2) Review your contact information

Once you have retrieved your application/registration record in [TSDR](#), select the "Status" tab and review the Attorney/Correspondence Information to confirm that the correspondence information is correct.

If the correspondence information is incorrect, correct it by filing a [Change of Correspondence Address](#) form. If necessary, you may also change the owner's address information, using the [Change of Owner's Address](#) form. Both forms are available at [Correspondence and Attorney/Domestic Representative Forms](#).

### (3) Determine if you are required to file anything

Select the "Documents" tab in [TSDR](#) and view the outgoing correspondence from the USPTO in the record to determine if you are required to file anything in connection with your application or registration, such as a response to an Office action, a statement of use, or a registration maintenance document.

If your application is still pending and you fail to file a required document before the deadline, your application will be abandoned. If your mark is already registered, and you fail to submit the required registration maintenance documents on time, your registration will expire or be cancelled. All required documents may be filed electronically by using the appropriate electronic form in the [Trademark Electronic Application System \(TEAS\)](#).

After your initial review of your application or registration record, continue to monitor the status of your application or registration, using the "Status" tab in [TSDR](#).

- For applications, you should check the status every six months between the filing date of the application and issuance of a registration.
- If your mark is already registered and you have filed an affidavit of use or excusable nonuse under §8 or §71 of the Trademark Act, or a renewal application under §9 of the Act, you should check the status of the registration every six months until you receive notice that the affidavit or renewal application has been accepted.

## Questions?

- For pending applications, contact the assigned examining attorney, whose contact information is provided in Office actions sent in connection with your application. In [TSDR](#), Office actions are identified as "Offc Action Outgoing" in the "Documents" tab. For registrations, contact the assigned Post Registration specialist, whose contact information will be provided in any Office action sent in connection with registration maintenance filings, or the Office of Petitions at 571-272-8950.
- For general questions about the trademark process, guidance on the type of information required in a particular electronic form, or information about which USPTO offices or employees to contact for particular issues, contact the Trademark Assistance Center at 571-272-9250, or toll-free at 1-800-786-9199. You can also email [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov).

## (4) Review all documents previously submitted on your behalf

If your application is still pending, and a registration has not yet issued, you should review any documents submitted on your behalf to confirm that it was signed by the appropriate party and that all the information in the document is correct. If you believe that any submitted document was improperly signed or contains incorrect information, you should contact the assigned examining attorney, who can answer questions about the process for resubmitting documents.

If your mark is already registered and registration maintenance documents have been submitted on your behalf, you should review the documents to confirm that they contain accurate information and are properly signed. If you have any questions about a registration maintenance document submitted on your behalf, you may contact the assigned Post Registration specialist whose contact information will be provided in any Office action sent in connection with registration maintenance filings, or the Office of Petitions at 571-272-8950.

For additional information on who may sign documents submitted to the USPTO in connection with trademark applications and registrations, see [Proper Representation in Trademark Matters](#) and [TMEP §§611.03–611.04](#)

## (5) Consider hiring a qualified attorney to represent you

Consider hiring a qualified attorney with expertise in trademark matters to represent you in the application process. While a USPTO trademark examining attorney will try to help you through the examination process even if you do not hire an attorney, USPTO attorneys are not permitted to give you legal advice.

A private trademark attorney who is licensed in the United States and is authorized to practice before the USPTO may:

- Help you avoid future costly legal problems by conducting a comprehensive search of federal registrations, state registrations, and "common law" unregistered trademarks before you file your application. Comprehensive searches are important because other trademark owners may have protected legal rights in trademarks similar to yours that are not federally registered. Therefore, those trademarks will not appear in our [Trademark Electronic Search System](#) database, but they could still ultimately prevent your use of your mark.
- Help you during the application process with several things that could seriously impact your trademark rights, such as determining the best way to describe your goods and services and preparing responses to refusals to register your mark that we may issue.
- Assist you after your mark is registered by filing registration maintenance documents and by taking actions to help you police and enforce your trademark rights. While the USPTO registers trademarks, you, as the trademark owner, are fully responsible for any enforcement of your private trademark rights.

If you decide to hire an attorney, you should be aware that, under U.S. federal regulations, the only individuals who may represent an applicant or registrant in trademark matters before the USPTO, other than certain previously authorized trademark agents, are (1) attorneys who are licensed to practice in the United States and (2) Canadian agents or attorneys who are authorized by the USPTO to represent applicants located in Canada. Employing a foreign attorney or other individual who is not authorized to practice before the USPTO to represent you in connection with your trademark application may delay and prolong the trademark application examination process and could jeopardize the validity of any resulting registration.

The USPTO has established a Law School Clinic program in which participating law schools provide free legal services to trademark applicants in connection with trademark applications before the USPTO. Each school in the program has its own criteria for accepting clients. If you are interested, you should contact a participating school to inquire about becoming a client. For a list of schools participating in this program and additional information about the program, visit [Law School Clinic Certification Program](#).

For more information on finding a qualified private attorney to assist you, visit [Using Private Legal Services](#).

For more information on the unauthorized practice of trademark law and who may practice before the USPTO in trademark matters, visit [Proper Representation in Trademark Matters](#).

## What to do when your application is abandoned

When an application is abandoned, it means that the application is no longer pending and, thus, a registration will not be issued. The USPTO may deem your application abandoned if you fail to submit a response to an Office action or fail to respond completely to an Office action; if you fail to respond to a suspension inquiry; or if you fail to file a statement of use. In addition, an application may be "expressly abandoned," meaning that the applicant has requested that application be abandoned and that no further prosecution of the application will occur.

In some cases, you may file a petition to revive an abandoned application or request that an abandoned application be reinstated. More information about abandonment and the process of reviving or reinstating an abandoned application may be found at [Abandoned Applications](#).

## What to do if your registration expires or is cancelled

Once your mark is registered, you, as the registration owner, must file specific documents and pay the required fees at regular intervals to keep the registration "alive" or valid. Failure to file these documents or pay the required fees will result in the cancellation or expiration of your registration.

If you failed to timely respond to an Office action refusing to accept a §8 affidavit, §71 affidavit, or §9 renewal application due to an extraordinary situation, you may file a formal petition under 37 C.F.R. §§[2.146\(a\)\(5\)](#) and [2.148](#) to accept a late response. You may file the petition electronically using the Petition to the Director under Trademark Rule 2.146 form, available at [Petition Forms](#). You must file the petition within two months of the issue date of the cancellation notice. If you did not receive the cancellation notice, or no cancellation notice was issued, you must file the petition must within two months of the date the Trademark database was updated to indicate that the registration expired or was cancelled.

If your registration expires or is cancelled, but you have proof that a USPTO error led to the cancellation or expiration, you may file a request to reinstate a cancelled or expired registration. You may file the request electronically using the Petition to the Director under Trademark Rule 2.146 form, available at [Petition Forms](#). Although a petition fee is required in order to file the form, it will be refunded if USPTO error is found. For a list of examples of situations where the USPTO may reinstate a cancelled or expired registration, please see TMEP §[1712.02\(a\)](#).

For additional information about maintaining your trademark registration, visit [Keeping Your Registration Alive](#).

# EXHIBIT Y



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Home / In-Depth Reporting / ABA ethics opinion sparks renewed debate...

ETHICS

## ABA ethics opinion sparks renewed debate over nonlawyer ownership of law firms

BY JAMES PODGERS ([HTTP://WWW.ABAJOURNAL.COM/AUTHORS/13/](http://www.abajournal.com/authors/13/))

DECEMBER 2013 (MAGAZINE/ISSUE/2013/12/)

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Illustration by Tim Marrs

An opinion issued recently by the ABA Standing Committee on Ethics and Professional Responsibility could ignite a debate over the concept of nonlawyer ownership of law firms only months after the association's House of Delegates sidestepped the issue while considering recommendations of the Commission on Ethics 20/20.

The ABA Model Rules of Professional Conduct—which are the direct basis for professional conduct rules in every state except California—do not permit nonlawyer ownership. And ABA Formal Opinion 464 ([http://www.americanbar.org/content/dam/aba/administrative/professional\\_responsibility/formal\\_opinion\\_464.pdf](http://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/formal_opinion_464.pdf)) (PDF), issued Aug. 19, does not deal with the issue of nonlawyer ownership. Rather, the opinion addresses the narrow question of whether the Model Rules permit a lawyer to divide a legal fee with a lawyer in a jurisdiction that would allow the other lawyer to eventually distribute some portion of the fee to a nonlawyer.

“Interfirm division of legal fees is clearly contemplated by the Model Rules,” specifically Rules 1.5 and 5.4, the committee states in its opinion. “A division of a legal fee by a lawyer or law firm in a Model Rules jurisdiction with a lawyer or law firm in another jurisdiction that permits the sharing of legal fees with nonlawyers does not violate Model Rule 5.4(a) simply because a nonlawyer could ultimately receive some portion of the fee under the applicable laws of the other jurisdiction.”

The committee bases its analysis largely on the distinction made by the Model Rules on dividing fees with lawyers and sharing fees with nonlawyers. Rule 1.5(e) authorizes “a division of a fee between lawyers who are not in the same firm” under certain limited circumstances. Meanwhile Rule 5.4(a) states, “A lawyer or law firm shall not share legal fees with a nonlawyer,” except under another set of limited circumstances.

Accordingly, a division of fees between lawyers under Model Rule 1.5 does not trigger the prohibitions in Model Rule 5.4 against fee sharing with nonlawyers, states the opinion. “As explained in Comment [1] to Model Rule 5.4: ‘These limitations are to protect the lawyer’s independence of professional judgment.’ The rule protects a lawyer’s independent professional judgment by limiting the influence of nonlawyers on the client-lawyer relationship.”

### SOUND THE ALARM

But despite its seemingly narrow scope, Opinion 464 has set off alarms among some segments of the legal profession. Their concern is that any step in the direction of giving nonlawyers some form of ownership involvement in law firms threatens the professional independence that is one of the core principles of lawyering.

“The whole idea of Model Rule 5.4 is that a law firm won’t be in-dependent if it’s splitting fees with a firm with nonlawyer owners,” says Lawrence J. Fox, a past chair of the ethics committee and a member of the ABA Commission on the Evaluation of the Model Rules of Professional Conduct, known as Ethics 2000. “In one simple, unsupported opinion, we’ve destroyed a principle we’ve fought so hard to protect,” says Fox, a partner at Drinker Biddle & Reath in Philadelphia.

Another critic of Opinion 464 is John E. Thies, the immediate-past president of the Illinois State Bar Association and the National Caucus of State Bar Associations. “It’s difficult to reconcile the opinion with ABA policy,” says Thies, a shareholder at Webber & Thies in Urbana.

In 2000, for instance, the House of Delegates rejected a proposal to allow multidisciplinary practice at law firms. That policy is known as the MacCrate resolution for Robert MacCrate of New York City, senior counsel with Sullivan & Cromwell. He led the charge against a proposal by the Commission on Multidisciplinary Practice, which had pushed for relaxation of professional conduct rules to allow lawyers and professionals in other disciplines to join together in single businesses. “The sharing of legal fees with nonlawyers and the ownership or control of the practice of law by nonlawyers are inconsistent with the core values of the legal profession,” states the resolution, which passed by a wide majority in the House. “The law governing lawyers that prohibits lawyers from sharing legal fees with nonlawyers and from directly or indirectly trans-ferring to nonlawyers ownership or control over entities practicing law should not be revised.”

Thies and Fox also suggest that the ethics committee may have overstepped its jurisdictional bounds in issuing Opinion 464. “The committee is supposed to interpret the rules, not change them,” Fox says. “It was just an end run.”

On Oct. 18, the ISBA Board of Governors adopted a resolution objecting to ABA Ethics Opinion 464 on grounds that it “creates new policy bypassing the ABA House of Delegates,” is “a violation of existing ABA policy” and is inconsistent with ISBA policy. This is not a new gambit for the ISBA, whose board adopted a similar resolution in 2012 when it was concerned that the Ethics 20/20 Commission was

considering the possibility of proposing that the ABA Model Rules be revised to permit some form of limited nonlawyer ownership of law firms.

Despite criticisms, the ethics committee is comfortable with its opinion, says chair Paula J. Frederick. "We took this on to provide helpful guidance to lawyers confronted with this issue," says Frederick, who is general counsel to the State Bar of Georgia in Atlanta. "The opinion does not make any statement, pro or con, about nonlawyer ownership of law firms. It simply answers the question of whether the Model Rules allow a lawyer practicing in a Model Rules state to divide a legal fee with a lawyer who practices in a firm that shares fees with nonlawyers. The opinion is limited to an interpretation of Rules 1.5 and 5.4, is squarely within the committee's jurisdiction, and thus is entirely appropriate."

The core value at stake in Opinion 464 "is whether dividing a fee in this way is likely to compromise the lawyer's independence of professional judgment," Frederick says. "If you presume that you are dealing with the typical lawyer—that is, one who tries to be ethical and who is reasonably aware of her obligations under the rules of professional conduct—I see little likelihood that this type of fee sharing by co-counsel would have any impact on the lawyer in the Model Rules state or her client."

Despite the growing heat over Opinion 464, issues relating to nonlawyer ownership of law firms in the United States still are largely prospective. So far, the District of Columbia is the only U.S. jurisdiction that permits a limited form of nonlawyer ownership. But nonlawyer ownership is becoming more common in foreign jurisdictions, notably Australia, Canada, England and Wales. American law firms doing business overseas are in a quandary over how to balance the more permissive rules on business structures in other countries and the more restrictive regulations in U.S. jurisdictions.

#### HAVE WE BEEN HERE BEFORE?

Nonlawyer ownership turned out to be one of the toughest issues for the ABA Commission on Ethics 20/20 to deal with, even though it never developed recommendations in that area. By the time the commission completed its work early this year, it had drafted a wide range of proposals to revise the Model Rules of Professional Conduct in response to the growing impact of technology and globalization on the legal profession. The commission's recommendations, submitted in two separate batches, breezed through the association's policymaking House of Delegates in August 2012 and again in February.

But in April 2012, at the close of one of the commission's many drafting meetings, co-chairs Jamie S. Gorelick and Michael Traynor announced that the commission had decided not to develop a proposal on whether nonlawyers should be allowed to have some form of limited ownership interest in U.S. law firms. Gorelick is a partner at Wilmer Cutler Pickering Hale and Dorr in Washington, D.C. Traynor of Berkeley, Calif., is a past president of the American Law Institute.

"Since its creation in 2009, the commission has undertaken a careful study of alternative law practice structures," said Gorelick and Traynor in their statement. "Based on the commission's extensive outreach, research, consultation and the response of the profession, there does not appear to be a sufficient basis for recommending a change to ABA policy on nonlawyer ownership of law firms."

Nevertheless, the commission still had to contend with a resolution co-sponsored by the Illinois State Bar Association and the ABA Senior Lawyers Division that called for the House of Delegates to reaffirm its MDP policy from 2000 and to affirm that the law governing lawyers relating to nonlawyer ownership and fee sharing should not be changed.

After a heated debate, the House voted to postpone the resolution indefinitely, which cleared the way for the Ethics 20/20 Commission to prepare its final recommendations for House consideration in February. But the commission declined to submit a resolution on the fee division issue, instead referring it to the ethics committee. And now that the committee has issued Opinion 464, the merry-go-round of debate over the issue is starting up all over again.

The question is how productive those efforts might be. "Whatever one thinks about the merits of nonlawyer ownership of law firms, the discussion needs to continue in the U.S., especially as we learn more about experiences abroad," says Andrew Perlman, a law professor at Suffolk University in Boston who served as chief reporter for the Ethics 20/20 Commission. "But I don't think we'll see movement on the ABA level. The ABA is reluctant to even discuss the issue at a policy level."

This article originally appeared in the December 2013 issue of the ABA Journal with this headline: "Second Time Around: An ABA ethics opinion sparks renewed debate over nonlawyer ownership of law firms."



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# **EXHIBIT Z**

# Bars Can't Handle The Regulation of Non-Lawyer Providers, So Let Us Solos/Smalls Compete

April 29, 2016 | [1 Comment](#)



To the [Commission on the Future of Legal Services](#),

These comments respond to the Commission's issues paper seeking feedback on whether state bar associations ought to consider regulation of non-legal service providers – ranging from online how-to publications and websites to human-supported or technology-enabled form-filling services. The short answer – don't. Because just as Tom Cruise's character couldn't handle the truth, the state bars can't handle the regulation of non-lawyer service providers. Moreover, there's no need to, because they are already subject to three higher and more effective forces of regulation: the Federal Trade Commission, market forces and [e-shaming](#) .

I'm not suggesting that non-legal service providers are perfect, or that they [expand access to justice](#) the way many claim. Some day they may – but they're

not there yet, and in this regard, the arrogant proclamations that tech has solved the problem seem premature at best.

The reality is different. Like any emerging technology, non-legal service providers are enduring serious growing pains. A quick search on the web shows hundreds of complaints about [Legal Zoom](#) ([here](#)), [Rocket Lawyer](#) ([here](#), [here](#) and [here](#)) and [Avvo](#) ([here](#)). Most state bars can scarcely keep pace with the several dozens of complaints lodged against lawyers. How could they ever effectively address consumer complaints about, and oversee compliance with non-legal service providers?

The fact is that state bars aren't well suited to address the problems that consumers have about these services. If you look through the complaints, many common gripes emerge: abysmal customer support, deceptive billing practices and sluggish service and response times. Most consumers simply want the money back – a remedy that state bars can't provide anyway. And even if one state bar were to shut down a service, it would simply re-emerge elsewhere.

More effective mechanisms exist to address deception by non-lawyer providers. Consumers can file complaints at the [Federal Trade Commission](#) and the [Better Business Bureau](#) or air their gripes online. There's no need for the state bars to attempt to replicate existing regulation, when at best, they could only serve as a pallid shadow of these systems.

Does that mean that there's no role for state bars in dealing with non-legal service providers? Absolutely not. Foremost, state bars should start by fulfilling their job of educating consumers about legal services. For example, state bars can educate consumers about how services like Legal Zoom and Rocket Lawyer compare to hiring a lawyer (on the one hand) and relying on entirely free tools (like Court self-help programs or using resources at state secretary offices to incorporate). But more importantly, they ought to stand out of the way and let solo and small firms compete with non-legal service providers instead of imposing more and more regulation that deters members of the public from using lawyers to begin with.

Here's a list of what needs to change. I've covered many of these topics at MyShingle, a blog that the Commission should be reading:

**Abolish Trust Accounts** – They [don't keep client money safe](#) and have made it difficult for lawyers to accept credit card payments (like non-lawyer providers) and deposit the money directly into operating funds to facilitate cash flow. Likewise, make it [easier, not harder to accept flat fees](#).

**Eliminate Unfair and Ridiculous Advertising Regulations** – Lawyers are subject to a completely ludicrous maze of regulations governing advertising [–which don't apply to non-lawyer providers](#) . Compliance adds cost and puts attorneys at a substantial disadvantage at a time when many consumers are turning to the internet to find lawyers. One rule ought to apply: is the communication deceptive, and leave it at that.

**Create A Safe Harbor for Innovation** – Many solos and smalls won't dare innovate because the consequences [can be draconian](#) . Let's give solos and smalls a [safe harbor to innovate](#) – and if firms can demonstrate a good faith effort for undertaking an action, give them a pass if it infringes on ethics and doesn't substantially harm consumers.

The bars have enough work to do in helping to make lawyers relevant again. They shouldn't waste their resources trying to [stop a train that's already left the gate](#). Moreover, regulating non-legal service providers won't make lawyers relevant – or bar associations either. Isn't that what this proposal is all about anyway?



(https://myshingle.com/)

Inspiring, Celebrating & Empowering  
Solo & Small Law Firms

# If We Can't Beat Them, Let's Compete With Them!

February 22, 2005 | 29 Comments (https://myshingle.com/2005/02/articles/client-relations/if-we-cant-beat-them-lets-compete-with-them/#disqus\_thread)



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I'm never more mortified than when I see lawyers trying to shut down legal document preparation services like We the People which purportedly compete with lawyers – as the Illinois Bar is doing. See Lawyers Protest Expanding Legal Document Preparers (http://www.suntimes.com/output/herman/cst-fin-law21.html), Chicago Sun times (2/21/05). I can't understand why attorneys, who offer a valuable service, feel the need to put glorified typing services like *We the People* out of business.

First, to say that document prep services even compete with what lawyers provide gives those services credibility that they don't deserve. Document prep services don't offer clients a lawyer's expertise and legal knowledge. Instead, they simply take information from a form (completed by a client), generate a document – a living trust, a bankruptcy petition or uncontested divorce – and file it. And for that, clients pay \$199 (for bankruptcy) or \$399 (for a living trust). Agreed, these services generally charge less than attorneys – but not always. However, they certainly cost more than if clients did the work themselves.

So why are lawyers threatened? The bars (like ISBA) won't admit that they're trying to help lawyers preserve our own monopoly on legal service. So the bars claim instead that document prep companies do a disservice to clients with shoddy work or improper advice. Granted, that's a significant problem. But rather than try to shut these companies down, it's our job as attorneys to persuade clients that the value that attorneys can add to living wills and bankruptcy petitions and uncontested divorces justify the added cost. Moreover, client welfare can be preserved through less onerous means such as education or consumer protection claims. Clients who believe that their cases were mishandled have sued *We the People* and the FTC has fined the company for deceptive advertising practices. Those efforts should be sufficient to protect clients from the inadequacies of document prep services.

Moreover, in our haste to run non-legal professionals out of town, we lawyers forget that many of the clients who use these document service providers constitute business that we are never going to capture anyway because of cost considerations. In the absence of these non-legal document services, many of these clients would probably handle their matters pro se. Yet, according to this article (http://www.washingtonpost.com/wp-dyn/articles/A113-2004May29.html) in the Washington Post, a company like *We the People* generates \$50 million in fees from 200,000 customers a year. That's a lot of lost business for lawyers. We ought to try to capture it for ourselves by competing with companies like *We the People*.

And how might we do that? Lawyers can try to come up with ways to provide simple, routine services inexpensively. Perhaps there's a way to automate the process – or to quickly review a form already prepared by a client. Perhaps a lawyer could run a seminar on filing your own bankruptcy petition and charge \$35.00 to a roomful of people who would then fill out the forms on the spot and have the option of filing them on their own – or paying an additional fee for a private consultation. With podcasting now the rage, maybe a lawyer could put together a little MP3 on how to fill in a bankruptcy form that clients could download and listen to. Clearly, there's a demand for cheaper service – \$50 million worth – and it just bugs me to let it go to providers who've not gone to law school. But getting rid of those people won't direct that \$50 million pot towards attorneys – it will just result in fewer available options for lawyers who can't hire attorneys.

Finally, those of you who've visited my website (http://www.his.com/israel/loce) may wonder what gives me, an energy regulatory practitioner, the credibility to comment on competition with non-legal providers. Well, in my industry, the competition between lawyers and non-legal providers is even more rampant. The Federal Energy Regulatory Commission (www.ferc.gov), one of the major regulatory fora where I practice permits non-lawyers to represent clients in agency proceedings. And many times, non-lawyer economists or consultants initially negotiate the terms of power supply contracts and tariffs and handle uncontested project permitting without ever bringing a lawyer in the door. I've had to mold my practice in such a way that I can provide added value that my non-legal competitors can't. I did this partly by educating clients on the mess that can result by failing to use an attorney so as to adequately preserve one's rights (e.g., to protest a contract or seek rehearing) – and partly by offering services like appellate work or representation at hearings – that non-attorneys either can't provide or are uncomfortable providing. In short, if I've found ways to make my legal services vital in the energy regulatory field, surely my colleagues can do the same in the general practice area.

If you have any ideas on how to compete with non-legal document preparation providers or any success stories to share, we welcome your comments below – or cross posts at your web log.

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FEATURES

# These venture capitalists skip law firms for legal services startups

BY SUSANNA RAY

MAY 2014 (/MAGAZINE/ISSUE/2014/05/)

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Venture capitalist Jason Mendelson ([http://www.abajournal.com/legalrebels/article/jason\\_mendelson/](http://www.abajournal.com/legalrebels/article/jason_mendelson/)), in a speech he gave last year, was not venturing much oral capital into the concept of investing in legal services.

A corporate and securities-law attorney before he co-founded the Foundry Group, his venture capital firm, Mendelson told a conference he found it difficult to invest in companies serving law firms because, unlike regular enterprise customers, they don't always act rationally when it comes to economics. He warned that most legal startups would fail due to the industry's complications and barriers.

Jason Mendelson is the Foundry Group co-founder and one of four managing directors. He hails from

Next up to speak was Colin Rule, the founder and chief operating officer at Modria, which bills itself online as "the world's leading online dispute resolution experts." And things changed.

Boulder, Colo., and his JD is from the University of Michigan. Photo by Matt Nager.

Mendelson says he was so impressed by Rule and by Modria's emphasis in targeting an area of the law that wasn't regulated by the ABA Model Rules of Professional Conduct or serviced by traditional law firms that he immediately agreed to a meeting and made an investment shortly afterward.

"We made a love connection at that conference," Mendelson says.

Rule is just as starry-eyed.

"We've spent a lot of time talking to VCs, and a lot of the time they don't understand the law profession," Rule says. "That's a big challenge. Occasionally around the table at a VC meeting there's a lawyer, and when you talk about the challenges the legal profession is facing, they get it. Jason got it."

## CASH FOR LAW, NOT FIRMS

It's no secret that investment money is flowing into law. In February, an article on the website of Tech Cocktail, a media company covering startups, crowed that "roughly \$458 million was invested into legal startups in the last year by investors. This is a remarkable increase from the \$66 million invested in 2012. And 2014 began with a strong January, seeing almost \$12 million done in four deals. Awareness and confidence in the legal startup arena is growing."

But that money is not going to law firms. Venture capitalists are skeptical of the upheaval underway in BigLaw, with uncertainty around changes in pricing and ownership rules as well as concern about efficiency and access to justice. So instead, VCs are investing in the legal technology vendors that are filling in some of those holes.

Lex Machina, Modria, Ravel, Rocket Lawyer, LegalZoom, SIPX (the Stanford Intellectual Property Exchange) and more—all have been the beneficiaries of this new outreach from venture capital as they seek to compete with or complement major law firms.



Editor's Note: Three years ago, the ABA Journal began a series of reports on the paradigm shift in how law is being practiced. Noting the changes brought on by a maturing market, disruptive technology, economic recession and the rise of legal services competing with law firms for parts of the legal dollar, this series has looked at how the legal business is responding—and the legal profession often not responding—to pressures never before placed on

The fact that VCs are interested in this budding segment of the legal industry—and that they only invest in enterprises they expect will make money for them—suggests a trend is taking shape that’s here to stay and likely to lead to good results.

“These people don’t invest money to lose,” Mendelson says of his fellow venture capitalists. The flow of funds was slow to get started, however, in part because of an aversion to the law. “There are very few lawyers who become startup investors, and those who do typically shun legal startups,” says VC Clint Korver, who founded Ulu Ventures in 2009 in Palo Alto, Calif., with his wife, Miriam Rivera, former vice president and deputy general counsel at Google.

That’s why Rule says he tries to keep the law out of his pitches to investors. Since Modria is an online dispute resolution and mediation platform based in San Jose, Calif., Rule talks instead about the problem and about the value disputes that aren’t currently addressed in the legal model.

“Where there’s a huge unmet need, a company can emerge with a solution and grow quickly,” Rule says. “That’s what gets investors excited.”

But the separation between law and venture capitalists is melting away. The current chair of the National Venture Capital Association is Josh Green, a former Silicon Valley attorney. And Peter Thiel, co-founder of PayPal, has a law degree from Stanford and has helped fund a few legal tech companies, including the legal research startup Judicata.

In fact, this new investment interest has been led largely by venture capitalists with legal backgrounds. Another investor with a law degree is Ron Dolin, who worked at CERN, the European Council for Nuclear Research in Geneva, before getting a PhD in computer science and becoming one of the first 100

lawyers and law firms.

This article is the fifth in our magazine series. It is a look at the venture capitalists who are financing legal services, but not law firms, to both increase access to justice and make money—lots of it. They are redefining what lawyers do, and helping shift the paradigm of law practice today. There is also online-only content for the series, available here

(<http://www.abajournal.com/lawbythenumbers/#tabs-1>).

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(<http://www.abajournal.com/mag>

employees at Google. He left after six years to pursue a JD and now teaches legal technology and informatics at Stanford Law School.

He's also an angel investor with a focus on legal technology startups and says he wants to start a whole pipeline of them to whittle away at the inefficiencies in the industry.

### ANGEL OR VC?

The difference between angel investors like Dolin and big-money venture capitalists like Mendelson isn't clear-cut anymore, Dolin says. "It's now kind of a continuum," he says. "Typically, angels put in \$10,000 to \$100,000. But VCs are putting in seed money because they want to gain early entry into a company. And angels are putting in half a million now, so it's getting a little more mushy."

The basic need, regardless of the stated motivation, is to take tens of millions of dollars and turn that into hundreds of millions. And venture capitalists are hungry for more ideas that will get them there.

"When you're working on something like legal aid, that's not likely to lead to for-profit startups," Dolin says. "But in consumer law, there's plenty of room for startups there. And when you start talking about consumer law, now you're looking at interest among VC people. You're going from Saks Fifth Avenue to something like Wal-Mart or Sears."

azine/article/the\_pedigree\_problem\_are\_law\_school\_ties\_choking\_the\_profession/)

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(http://www.abajournal.com/magazine/article/what\_americas\_lawyers\_earn/)



The latent market for the legal needs of the middle class is

Pictured from left to right, Venture Capitalists Robert Siegel, Jeff Thermond, Miriam Rivera, Clint Korver, Ron Dolin, and Josh Becker. Photo by Norbert von der Groeben.

tens of billions of dollars

a year, Dolin says, as long as the right services and the right pricing structure are developed.

“It’s like H&R Block—where’s the legal equivalent of that?” Dolin says. “When you start talking consumer law, you get that increase in scale and ramp-up of a startup. If they hit the market right, that’s what a VC is looking for,” he says. “The ones that don’t fail have to pay for the ones that do fail, so they’re looking for high-end growth.”

But returns aren’t all that drive VCs.

“Yes, there’s making money, but a lot of it is enabling dreams and pursuing causes,” says Dolin. “I’m wanting to invest in legal tech because I want legal technology to succeed. It’s incredibly important with consumer law. “The latent market is a signal of inefficiency—of people not getting the help they need because the infrastructure is broken. The fact that someone’s making money is indicative of an inefficiency being fixed. “It’s not selling Pet Rocks,” he says. “I don’t want to sell Pet Rocks. I want to have an impact in a field that is really important for humanity. And the fact there are such inefficiencies also means there’s a lot of money to be made.”

Dolin says he often co-invests with Ulu Ventures’ Rivera, whom he knows from their time together at Google.

“Miriam will contact me when she has a legal tech company because she likes having me onboard, and she feels it helps them be more successful because of my engineering and law background,” Dolin says.

Rivera shares Dolin’s drive, he says.

“Miriam cares about women in law, minorities, access to legal justice, making money. All these various interests align, and where you see such huge inefficiencies as you do in the legal industry, you can simultaneously help people



Ron Dolin is an Angel investor and Stanford Law School research fellow from Stanford, Calif., with a JD from the University of California’s Hastings College of the Law. Photo by Norbert von der Groeben.

and make money—and that’s the best,” Dolin says. “You don’t have to decide between making money and helping people.”

Korver, Rivera’s husband and now chief operating officer of NovoEd—an online, college-level education provider—agrees with Dolin’s assessment: “We have financial criteria for our investments, but we’re also looking to make the world a better place,” he says.



Miriam Rivera is Ulu Ventures’ co-founder and managing partner in Palo Alto, Calif., who received her JD/MBA from Stanford University. Photo by Norbert von der Groeben.

## HER STORY

Rivera, one of the most influential women in Silicon Valley, got her start as a venture capitalist “half by accident and half intentionally,” given her background with the law and Google, Korver says. Rivera says she’s “one of the crazy people who actually loved practicing—a glutton for punishment—the intellectual challenge of law tied to core values of justice and fairness.”

That’s what also makes the legal industry attractive to her as an investor, she says, although she knows all too well that the complexity and inefficiency can be barriers to entry for investors.

“Perhaps a knowledge of the law makes you aware of how conservative a profession it is and how slow to adapt, so it makes you more cautious,” Rivera says. “But at some level there are new and interesting opportunities.”

Rivera’s business background enhanced her value as an attorney, she says, helping her bring a more quantitative and data-driven approach to the practice and operation of law. But as Google’s vice president and deputy general counsel, she found herself looking at metrics and running law departments in a way that was novel in the field of law, where most participants don’t have backgrounds in business or operations.

Google was going through a high-growth phase, and she had a hard time figuring out how to resolve matters in compliance with the law while still meeting metrics such as closing advertising partnerships in three days. Going too slowly could have stalled revenue growth and hurt the company’s future.

So Rivera looked to find “ways people could do legal tasks with as little legal intervention as possible.” That started the company on the hunt for technology that could automate some of these legal solutions.

In addition, since Google was a very data-driven company, the founders and then-CEO Eric Schmidt wanted to understand the tradeoffs between legal protections and business needs in financial terms. It was difficult for Rivera to provide the executives with data on risks of commercial litigation or contract work.

“It was so frustrating trying to be a data-driven legal department when the whole profession doesn’t even support the use of data—because it’s fine to reinvent the wheel if you get paid every time you re-create the wheel,” Rivera says.

And that’s why Lex Machina, a legal analytics company based in Menlo Park, Calif., sparked her interest.

Lex Machina offers the tools to assess and compare law firms’ and lawyers’ work and outcomes, assuaging the frustration Rivera still carried from when she was building Google’s legal department from two to 150 attorneys, but had no way of evaluating the counsel she paid, says Josh Becker, Lex Machina’s CEO.

For Korver, who has a PhD in management science and engineering from Stanford, what resonated was the company’s focus on making better decisions through legal analytics, Becker says.

Korver was the first to see that Lex Machina wasn’t competing against traditional legal providers, but instead was providing a new capability—combining a lawyer’s intuition with hard data to make the best decisions, Becker says.

“There is a cool factor,” Rivera says. “It’s a lot of fun to be a part of. When I look at a company and imagine the future of law and how it will be different, I can see the impact.”

Ulu Ventures has gone on to help fund such legal startups as Hire an Esquire (flexible law-firm staffing); Ravel (legal research); SIPX (copyright management); and EasyESI (document storage and review).

“Once you make an investment in an area, particularly in one that’s somewhat tricky for general VCs to understand, you become someone people know to go to,” Rivera says. “You understand what they are trying to do and that there really is a market potential here. People not familiar with law often underestimate how big an industry it really is.”

POSTER CHILD

Lex Machina is one poster child for this new investing development.

“When I started in 2011—we raised our first round in the beginning of 2012—you had very few venture capitalists that had ever invested in the legal space,” says Becker, who was once a venture capitalist himself. “It was very much an area that wasn’t on the radar screen with VCs. There was a lot of skepticism.”

Becker says he used his relationships and credibility with investors to get venture capitalists to take a look at the merits of Lex Machina and not just dismiss it out of hand because it was law-related. “Once we did that, we were able to attract investment,” Becker says. “And we helped pave the way for a lot of companies because once one VC goes into a space, others look at it.”

Indeed, the number of legal companies seeking funds through AngelList, a website that helps connect startups with investors, has surged from only a few three years ago to 461 as of press time. A venture-capitalist firm’s entry into one company in an industry not only attracts others; it also can make that firm comfortable enough for further forays in that field. One of Lex Machina’s investors, XSeed Capital, went on to help fund SIPX.

XSeed, based in Portola Valley, Calif., was founded in 2006 to invest in companies that have tech as a key differentiator, says Robert Siegel, a general partner at the firm. The partnership makes its initial investments at the seed stage and works with management when a startup is raw but has “the ability to become humongous,” Siegel says.

“We are backed by institutional investors looking for high risk and high reward,” he says. “We’re looking to fund the next Google.”

XSeed is small, managing just \$110 million, making it part of a new wave of micro venture capitalists who focus on the seed stage of a startup, Siegel says. That often requires a close relationship with universities, which is where the core of money for technology gets invested, he says.



Lex Machina CEO, Josh Becker, hails from Menlo Park, Calif., and has a JD/MBA from Stanford University. Photo by Norbert von der Groeben.



Robert Siegel, from Portola Valley, Calif., is a general partner at XSeed Capital with an MBA from Stanford University. Photo by Norbert von der Groeben.

XSeed looks closely at risks in a startup's technology, execution and market, Siegel says. The company likes technology risk because, if technology is a differentiator, good engineers can solve most problems. If there's execution risk, then XSeed considers whether it can help the firm hire the right skill set, Siegel says, similar to being the coach of a sports team.

Market risk—"Will the dogs eat the dog food?"—is the variable that's hated by most VCs, who don't like the uncertainty of knowing whether customers are going to buy a product or not, he says.

"We look at the law profession as but one potential vertical that has the ability to be reinvented," Siegel says. "I'd be lying if I said that we looked at 20 verticals and law was the only one we chose. But when we looked, there were attributes that made us believe there would be certain opportunities here. It's a large market with slow incumbents, old technology and new technology being developed that can deliver better solutions that are available today."

Hence XSeed's investment in Lex Machina, which came out of Siegel's alma mater, Stanford, where he's now on the faculty. He had known Becker at Lex Machina for the last 15 years, and when Becker was looking to raise money for his startup, "people advised Josh to go talk to Rob, because the guys at XSeed like funding companies with deep tech breakthroughs out of universities," Siegel says.

## THE STANFORD INCUBATOR

Stanford Law has been an incubator for legal startups, being situated in the heart of Silicon Valley and hosting its swarm of entrepreneurial activity.

In fact, Korver and Rivera, whose JD/MBA is from Stanford and who recently served on its board of trustees, say Ulu Ventures focuses on tech coming out of the school. Korver teaches



entrepreneurship there, too, and the pair co-founded a group called Stanford Angels & Entrepreneurs to connect alumni seeking startup assistance with those offering funds.

The VC firm subleases space from a law firm on Stanford land in a building whose red-tile roofs match the university's.

"We'll take a meeting with any company coming through CodeX," the Stanford Center for Legal Informatics, Korver said in an interview before stepping back from Ulu Ventures to join one of its companies.

Silicon Valley has the right ingredients for the new developments in the legal industry, with the confluence of a law school, design school, startup mentality, venture capitalists, banks and law firms. And most have made sure they're close enough to be within biking distance of Stanford, since so many entrepreneurs don't have cars, Rivera says.

"The machinery, the culture, the mindset is such that when it gets going, it's going to kick ass," Dolin says of the valley. "So all of a sudden we realized, 'Hey, we could apply this innovative machinery to the legal system, so let's do that.' "

And the ecosystem does make a difference. Many of the entrepreneurs already knew the investors they ended up working with through friends or their kids' sports teams.

"It's a small valley," Becker says.

But Silicon Valley isn't the only hotbed for legal startups.

"Relatively speaking, there's been quite a lot that has come out of Stanford, but if you go to these legal tech dinners, it's not like the majority of them are from Stanford," Dolin says. "Legal tech is coming from all over the place."

Still, Lex Machina's Stanford connection was what got the company its first meeting with XSeed, which is closely associated with the school. One of XSeed's investment theses is that technology is enabling the analysis of data better than at any other time in history, says Jeff Thermond, a venture partner with the firm. And Lex Machina fit with that. It just happened to be in the legal space.

"I don't think we went out and said, 'Let's go light up the legal services space because we think it's the natural area for VC investing,' " Thermond says. "From the outside, people think venture capitalists tend to invest in categories. In reality,

Clint Korver is NovoEd's COO and Ulu Ventures' co-founder. His PhD is in management science and engineering from Stanford University, and he now resides in Palo Alto, Calif. Photo by Norbert von der Groeben.

the investments are about companies, and they're very specific.”

Thermond worked in information technology and computer networking for 30 years before joining XSeed as a venture partner. He doesn't have legal training, but when he was an executive at Broadcom, the company “got involved in a bunch of lawsuits, and he got involved, so he had personal experience,” Becker says. So when XSeed invested in Lex Machina, Thermond “just got it right away and joined the board to be a mentor to me.”

Venture capitalists rarely have time to get out and search for something in a certain space, Thermond says. Mostly they just evaluate the pitches coming in and decide whether one fits their view of the world, whether they like the team, whether the market is big enough to produce a venture-size return and whether the technology is there.

“The law is a very appealing space to us because whereas retailers for 20 years have been doing things with fancy databases to analyze consumers, the law has been a laggard in adopting technology like this,” Thermond says. “We think there'll be a very high payoff.”

And the herd mentality is strong.

“If someone is really successful in a given area, everyone will jump on the bandwagon,” says Rivera.

## GROWING CLOSER

Venture capitalists' partnership with legal companies is maturing. Becker says that for his first round of funding, he had to run around and pitch to a lot of firms. But for a recent round, last May, “they really sought us out and found us,” he says. The company raised \$4.8 million in a Series A funding round led by Cue Ball Capital in Boston. (Series A is the first major venture funding round after the seed capital.)

Cue Ball has a more traditional venture-capitalist approach and didn't invest in Lex Machina out of a love for law, Thermond says. Instead, the company sees “a large market that's missing something, a lot of technology out here, a proven team—and it doesn't look like a firm that will require a ton of money put into it, so it should be a good return,” Thermond says.



Colin Rule is the founder and COO at Modria based in San Jose, Calif. Photo by Norbert von der Groeben.

That's a big change from two or three years ago, when most VCs weren't open to even contemplating a company in the legal industry, Becker says.

"It still has to be a solid plan, but at least now VCs are open to looking at you," he says. "It's pretty hot. There's a lot going on. It's really exciting."

And all of the newly available financial backing is in turn inspiring new startups.

"There are a lot of very entrepreneurial lawyers. And once they see there's capital out there, if they've got ideas—that's spurring interest," Becker says.

To be sure, one foray into the field doesn't necessarily lead to an entire settlement. And the industry's growth path is still bumpy, with only a handful of companies—such as online document and legal advice suppliers LegalZoom and Rocket Lawyer—getting broad attention.

"I know the disruption is happening" in law, Mendelson says, "but I'm frustrated trying to find entities that can command VC-type returns. There have been some nice, but no massive, wins in legal tech. But as for the billion-dollar exits, I haven't seen anything like that."

In the meantime, there are more and more investors—law-minded or not—jumping into legal technology startups to get a piece of the legal system's evolution.

"Venture capitalists are all looking for whatever new thing is going to get them going, and they don't mind if it's consumer law," Dolin says. "They're just like, 'Let's make it happen.' So we are."

This article originally appeared in the May 2014 issue of the ABA Journal with this headline: "They're After Legal Gold: But these venture capitalists skip law firms for legal services startups."

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Home / In-Depth Reporting / Ethics opinions have to reflect the present...

BUILDING THE 21ST-CENTURY LAW FIRM

# Ethics opinions have to reflect the present and future—not the past

BY CAROLYN ELEFANT

DECEMBER 2017 (/MAGAZINE/ISSUE/2017/12/)

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One of the most enduring purposes behind the ABA Model Rules of Professional Conduct and corresponding state ethics standards is to protect clients and the public from “overreaching, overcharging, underrepresentation and misrepresentation.” (See *Ohralik v. Ohio State Bar*, 1978.)

More than a century after the 1908 adoption of the association’s first set of guidelines, the ABA Canons of Professional Ethics, the clients whom ethics standards protect and the lawyers governed by them have changed drastically. Yet in substance and form, ethics standards remain stagnant—and the same lofty principles that once inspired the best in lawyers will soon render us irrelevant.

## ARCHAIC RULES

In substance, today’s legal ethics standards are so utterly out of sync with the lifestyle, social conventions and technology savvy of today’s consumers that they actually breed mistrust.

Imagine an encounter with an alien that hails from a planet where placing one’s hands around a new acquaintance’s throat is intended as a sign of respect. Yet without this background, you’d understandably feel distrustful and threatened if greeted by a stranger who has a firm vise around your neck. The same is true of ethics standards in the modern world: They require lawyers to act in a manner that is so alien in today’s society as to arouse suspicion. Consider the two following scenarios.

Case 1: Penny Prospect, a mom seeking a divorce, arrives at your office for a consult. You think the meeting went well, but you never hear back. It turns out your instincts weren’t wrong—Penny was leaning toward retaining you—until she viewed your profile on LinkedIn and saw a disclaimer that states: “This profile is attorney advertising.”

In a decade of using LinkedIn (including as recently as that morning when she updated her profile in anticipation of searching for a higher-paying job), she has never seen a disclaimer like this. She knows LinkedIn’s user agreement (<https://www.linkedin.com/legal/user-agreement>) prohibits advertising. Doesn’t this lawyer understand terms of service?

Penny’s concerns aren’t allayed when she clicks a link to the lawyer’s blog and once again sees “This blog is attorney advertising” underneath the blog caption. Penny doesn’t bother to read the posts; she assumes that if they’re advertising, they won’t be very valuable.

Penny wonders what's wrong with this dude. He's so caught up in promoting himself online that he won't have time to handle her case. Ultimately, Penny heads to LegalZoom, which doesn't have the same advertising disclaimers, and signs up for the do-it-yourself divorce package that includes attorney review.

Case 2: Noah Newbie is a recent business school graduate seeking to incorporate an online business. After the meeting, you hand him a 15-page retainer agreement and ask him to sign it and send it back with a check.

Noah leaves the office and tosses the retainer agreement into the trash can. He doesn't understand a word of it. Plus, he's always paid bills by credit card. He's not sure that he still has a checkbook.

He decides to search his lawyer's ratings online, but there's not a client review or testimonial to be found. Because Noah always checks ratings before making a purchase, he's disconcerted about why he can't find any for his lawyer: Were they so bad she paid to have them removed?

Then Noah discovers a site called Avvo Answers, where he can ask questions about incorporating a business for \$39. Noah searches for a New York lawyer. When he can't find one, he discovers that several bars, including New York, have banned lawyers from doing business on Avvo. Apparently, it's unethical for the site to take a cut of the \$39 fee you pay to talk to a lawyer.

Noah doesn't get it. Isn't it a common online business model for the platform providing goods or services to take a cut of the sale? That's how Etsy and Airbnb work—heck, Uber is killing it. Noah can't believe this rule is really intended to protect clients. It's probably a way to force clients to have to trek to a stuffy, old lawyer's office and fork over \$1,000.

It looks like his mentor, who heads a successful startup, was right after all: Noah is going to have to start his corporation at Rocket Lawyer by himself. Noah sighs, thinking it was easier to find his fiancée online through a dating site than it is to hire a lawyer.

## REAL RULINGS, FALSE FEARS

These aren't fantasy scenarios; they are based on actual ethics opinions. New York County Lawyers Association Formal Opinion 748

([http://www.nycla.org/siteFiles/Publications/Publications1748\\_0.pdf](http://www.nycla.org/siteFiles/Publications/Publications1748_0.pdf)) (2015) requires disclaimers in LinkedIn profiles. State Bar of California Formal Opinion 2016-196

([http://www.calbar.ca.gov/Portals/0/documents/ethics/Opinions/CAL%202016-196%20\[12-0006\]%20Bloggging.pdf](http://www.calbar.ca.gov/Portals/0/documents/ethics/Opinions/CAL%202016-196%20[12-0006]%20Bloggging.pdf)) treats a blog as advertising that's subject to advertising rules if the attorney

makes known their availability for service. And New York State Bar Association Ethics Opinion 1132 (<http://www.nysba.org/EthicsOpinion1132/>) (2017) finds Avvo Answers and similar sites to constitute unethical fee splitting, as did a 2016 advisory opinion (<https://www.scbars.org/lawyers/legal-resources-info/ethics-advisory-opinions/eao/ethics-advisory-opinion-16-06/>) from the South Carolina Bar.

As these examples bear out, the parade of horrors that regulators envision—fee splitting with nonlawyers injecting their interest into the attorney-client relationship, testimonials and reviews that might dupe clients into hiring an unqualified lawyer, making objective and useful information online available through a LinkedIn profile or a blog without prominently labeling it as advertising (I'm stumped to figure out what kind of harm that could ever cause)—doesn't intimidate today's clients at all.

Most of today's clients have seamlessly, thoroughly integrated social media and "sharing-economy" platforms, as well as online payments and content-based marketing, as part of their daily lives. They've acclimated to the cultures of each online universe they inhabit and grown adept at distinguishing between causal informational websites and biographical profiles, and chatty personal exchanges and paid advertising. So when lawyers can't conform their conduct to these mores, they're first viewed with suspicion or annoyance and, ultimately, ignored.

Read more ... ([http://www.abajournal.com/magazine/article/legal\\_ethics\\_opinion\\_relevance/P1](http://www.abajournal.com/magazine/article/legal_ethics_opinion_relevance/P1))

1	2	Next Page
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Carolyn Elefant is an energy and eminent domain attorney based in Washington, D.C. She says blogging at MyShingle "has given me a bird's-eye view of the changes that have been roaring through the legal profession and an opportunity to chronicle and speak on these trends."

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Home / Daily News / Non-lawyer ownership laws in UK allow some...

LAW PRACTICE MANAGEMENT

## Non-lawyer ownership laws in UK allow some firms to thrive

BY VICTOR LI ([HTTP://WWW.ABAJOURNAL.COM/AUTHORS/27587/](http://www.abajournal.com/authors/27587/))

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While the debate over non-lawyer ownership of law firms continues to rage in the United States, several lawyers in the U.K. seem to be pleased with the way outside investments have helped their firms.

Two UK firms have thrived since a 2011 law ([http://www.abajournal.com/news/article/uk\\_consumers\\_could\\_buy\\_legal\\_services\\_with\\_bread\\_milk\\_and\\_eggs\\_as\\_soon\\_as\\_j](http://www.abajournal.com/news/article/uk_consumers_could_buy_legal_services_with_bread_milk_and_eggs_as_soon_as_j)) went into effect allowing law firms to solicit funding from outside investors, according to an article in *The American Lawyer*

(<http://www.law.com/sites/almstaff/2016/08/02/external-investment-in-u-k-law-firms-fuels-massive-revenue-growth/?sreturn=20160704111440>).

The first such firm in the UK to allow non-lawyer ownership, Knights Solicitors, has experienced rapid growth in both revenue and headcount, according to chief executive officer David Beech. He says the firm is bringing in five times as much revenue and 10 times the profit as it did before instituting its alternative business structure in 2012. In 2013, Knights Solicitors acquired the Chester office of leading UK law firm Hill Dickinson, before doubling up its headcount by swallowing up Darbys Solicitors earlier this year, the article said.

Beech told the ABA Journal that the firm made the decision to accept outside investments so partners could run the firm as a business. "Having been in private equity, it seemed obvious to me that running a law firm through an equity partnership structure was dysfunctional," says Beech, "and the potential opportunity was significant." Beech says his firm's equity partners took the longest to get on board with the changes, but that, eventually, they accepted the fact that they were working in a business "as employed partners" and that they needed to "embrace a new team culture."

Meanwhile, another UK firm, Gateley, took the step of going public. In June it became the first UK firm to be listed on the London Stock Exchange, and raised \$45 million in its initial public offering. Earlier this year the firm acquired Capitus Ltd., a tax advisory company, to complement the firm's real estate practice. In July, Gateley announced that, during its first year as a publicly traded company, the firm made 11 million British pounds in profits and posted a 10 percent increase in revenue.

According to Robert Bourns, partner at TLT Solicitors and president of the Law Society in the UK, of the approximately 10,000 law firms in the UK, about 450 of them are alternative business structures. "It is still in the early days," says Bourns. "[But] alternative business structures are cited as being more innovative than traditional law firms and therefore our regulators are looking at ways to encourage more into the market."

Bourns notes that small firms have been quicker to embrace ABS, pointing out that they tend to have simpler management structures that are more easily understood by outside investors.

"The largest and most profitable firms continue to rely upon traditional means of financing: partner capital, banks, tight management of working capital," Bourns says. "Most recognize that a third party will require a return on their capital, which will likely have an impact on profit shares for those employed in the firm."

Bourns says he rejects the notion that ABS firms are anathema to the practice of law. However, he cautions that increased competition could have a deleterious impact on clients.

“I am determined that solicitors should not be regarded as lacking in innovation or the acumen necessary to promote successful and innovative law firms,” Bourns says. “I do not see ABS as necessarily conflicting with professional standards or ethos. I do have concerns that a determination to promote competition at all costs could impact standards. Ultimately clients will determine whether they discern value in the service they receive, whether from an ABS or traditional law firm.”

But the beleaguered Australian firm Slater & Gordon is “Exhibit A” that outside investments are not the panacea for the legal industry’s woes. The firm posted a loss

([http://www.abajournal.com/news/article/slater\\_and\\_gordon\\_could\\_be\\_on\\_the\\_brink\\_after\\_reporting\\_huge\\_losses\\_in\\_the\\_](http://www.abajournal.com/news/article/slater_and_gordon_could_be_on_the_brink_after_reporting_huge_losses_in_the_)) of 1 billion Australian dollars (\$740 million) for the second half of 2015 and recently made a A\$840 (\$635 million) refinancing deal

([http://www.abajournal.com/news/article/slater\\_gordon\\_makes\\_deal\\_with\\_lenders\\_boosting\\_stock\\_price\\_but\\_wont\\_pay\\_div](http://www.abajournal.com/news/article/slater_gordon_makes_deal_with_lenders_boosting_stock_price_but_wont_pay_div)) with its lenders. The firm has already had to close one office in the UK and is looking at shuttering others.

Beech says he is not concerned that what happened to Slater & Gordon could happen to Knights. “Care will be taken as to which firms we acquire,” he says.



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