

never “actually pending” under that responsibility, although as a theoretical matter, such responsibility extended to all legal matters within the department.

(vii) Other essential requirements. All other requirements of the statute must be met before the restriction on representation applies. The same considerations apply in determining the existence of a “particular matter involving a specific party,” a representation in an “appearance,” or “intent to influence,” and so forth as set forth under paragraph (b)(1) of this section.

Example 1: During her tenure as Director of the Office, the Director’s subordinates undertook major changes in application of new rules for processing patent applications. Eighteen months after terminating employment, she is asked to represent before the Office Z Company, which believes it is being unfairly treated under the application of the rules. The Z Company matter first arose on patent applications filed after the Director terminated her employment. She may represent Z Company because the matter pending under her official responsibility was not one involving “a specific party.” (Moreover, the time-period covered by 18 U.S.C. 207(c) has elapsed).

(viii) Measurement of two-year restriction period. The statutory two-year period is measured from the date when the employee’s responsibility in a particular area ends, not from the termination of service in the Office, unless the two occur simultaneously. The prohibition applies to all particular matters subject to such responsibility in the one-year period before termination of such responsibility.

Example 1: A Group Director retires after 26 years of service and enters private industry as a consultant. He will be restricted for two years with respect to all matters that were actually pending under his official responsibility in the year before his retirement.

Example 2: A patent examiner transfers from a position in a first Group to a position in a second Group, and she leaves the Office for private employment nine months later. As a registered patent attorney or agent, after 15 months she will be free of restriction insofar as matters that were pending under her responsibility in the first Group in the year before her transfer. She will be restricted for two years in respect of the second Group matters that were pending in the year before her departure for private employment.

(c) *Former employees of the Office.* Former employees of the Office, whether they are or are not a practitioner, are subject to the post-employment provisions of 18 U.S.C. 207(a) and (b)(1), and the provisions of 5 CFR 2637.201 and 2637.202. A former employee who is a practitioner is subject to the provisions of § 11.111.

(d) A practitioner who becomes an employee of the Office may not prosecute or aid in any manner in the prosecution of any patent application before the Office. Noncompliance with this provision shall constitute misconduct under § 11.804(i)(19).

(e) Practice before the Office by Government employees is subject to any applicable conflict of interest laws, regulations or codes of professional responsibility. Noncompliance with said conflict of interest laws, regulations or codes of professional responsibility shall constitute misconduct under §§ 11.804(b) or 11.804(h)(8). A practitioner who is a Government employee must so inform the OED Director, and must provide his or her complete Government address as his or her business address in every communication to OED.

§ 11.11 Administrative suspension, inactivation, resignation, and readmission.

(a) Registered attorneys and agents must notify the OED Director of their postal address for his or her office, e-mail address for his or her business, and business telephone number, and of every change to any of said addresses, or telephone numbers within 30 days of the date of the change. A registered attorney or agent shall separately provide written notice to the OED Director in addition to any notice of change of address and telephone number filed in individual applications. A registered practitioner who is an attorney in good standing with the bar of the highest court of one or more states shall provide the OED Director with the state bar identification number associated with each membership. The OED Director shall publish from the roster a list containing the name, postal business addresses, business telephone number, registration number, and registration status as an attorney or agent of each registered practitioner recognized to practice before the Office in patent cases.

(b) *Administrative suspension.* (1) Whenever it appears that a registered patent attorney or agent has failed to comply with § 11.8(d) or §§ 11.12(a) and (e), the OED Director shall mail a notice to the attorney or agent advising of the noncompliance and demanding:

(i) Compliance within sixty days after the date of such notice, and

(ii) Payment of a delinquency fee set in § 1.21(a)(9)(i) of this subchapter for each rule violated. The notice shall be communicated to the attorney or agent by mail or e-mail, according to the manner by which the practitioner last communicated his or her business postal or e-mail address to the OED

Director, or by other service for practitioners located out of the United States, its possessions or territory.

(2) In the event a registered patent attorney or agent fails to comply with the notice of paragraph (b)(1) of this section within the time allowed, the OED Director shall send notice in the manner provided for in paragraph (b)(1) of this section to the attorney or agent at the practitioner’s most recent business postal or e-mail address on file advising:

(i) That his or her registration has been administratively suspended, and

(ii) That the attorney or agent may no longer practice before the Office in patent matters or in any way hold himself or herself out as being registered to practice before the Office in patent matters.

(iii) Following administrative suspension, the suspended practitioner may be reinstated only upon demonstrating to the OED Director satisfaction that the practitioner has complied with the rules relating to registration, and upon payment of a reinstatement fee set by § 1.21(a)(9)(ii) of this subchapter for each rule violated.

(3) Whenever the OED Director notifies an attorney or agent that his or her registration has been administratively suspended, the OED Director shall publish notice of the administrative suspension in the Official Gazette.

(4) An administratively suspended attorney or agent remains responsible for paying his or her annual fee required by § 11.8(d), and for completing the required continuing training programs.

(5) An administratively suspended attorney or agent is subject to investigation and discipline for his or her conduct prior to, during, or after the period his or her name was administratively suspended.

(6) An administratively suspended attorney or agent is prohibited from continuing to practice before the Office in patent cases while administratively suspended. Failure to comply with this rule will subject the attorney or agent to discipline.

(c) *Administrative Inactivation.* (1) Any registered practitioner who shall become employed by the Office shall comply with § 11.116 for withdrawal from the applications, patents, and trademark matters wherein he or she is an attorney or agent of record, and notify the OED Director in writing of said employment on the first day of said employment. The name of any registered practitioner employed by the Office shall be endorsed on the roster as administratively inactive. The practitioner shall not be responsible for