Commissioner of Patents and Trademarks
Patent and Trademark Office (P.T.O.)

IN THE MATTER OF: GLENN A. COLLETT RESPONDENT
Docket No. DP 91-3
March 27, 1991

Appearance for Respondent

Mr. Glenn A. Collett

Appearance for Agency

Robert D. Edmonds, Esq.

Associate Solicitor

***1** U.S. Patent and Trademark Office Office of Enrollment and Discipline

Hugh J. Dolan

Administrative Law Judge

RECOMMENDED DECISION ON DEFAULT

PRELIMINARY STATEMENT

This is a disciplinary proceeding initiated under 35 U.S.C. § 32 and the regulations promulgated thereunder at 37 C.F.R. Part 10, against a patent agent registered to practice before the Patent and Trademark Office (PTO) (Registration Number 29478).

Respondent has been charged with failing or refusing to cooperate with the Office of Enrollment and Discipline in the United States Patent and Trademark Office. The complaint dated November 26, 1991, details the charge of unethical conduct.

Respondent has failed to respond to the complaint or to this Tribunal's correspondence. For his failure to file an answer, Respondent has been found to be in default. Pursuant to applicable regulations 37 C.F.R. § 10.136(d), the facts alleged in the complaint are deemed to be admitted. Agency Counsel has elected to make no further filings, relying upon the default finding.

FINDINGS

1. Prompted by a communication received in the Office of Enrollment and Discipline on December 28, 1988, complaining about Respondent's conduct, a letter, dated January 30, 1989 and addressed to Respondent

at 200 Market Building, Suite 963, P.O. Box 1833, Portland, OR 97207, was mailed notifying Respondent that the communication warranted an investigation under 37 C.F.R. 10.131(a), that he was requested to submit a written statement within thirty days fully and fairly disclosing all facts and circumstances pertaining to the allegations contained in the communication; and further, Respondent was reminded in the letter dated January 30, 1989, of his duty to cooperate with any investigation under 37 C.F.R. 10.131(a) and 10.23(c)(16). The letter dated January 30, 1989, was addressed to the address of which separate notice was last received by the Office of Enrollment and Discipline from Respondent.

2. The letter dated January 30, 1988, was returned to the Office of Enrollment and Discipline undeliverable.

3. Respondent communicated by telephone on March 17, 1989 and informed the Office of Enrollment and Discipline of his current address and his wish to resign; by letter dated March 29, 1989 and sent by certified mail, Respondent was provided with (i) documents for resignation and (ii) a copy of the letter dated January 30, 1989, with attachments referenced therein; he was informed that he must respond to the letter dated January 30, 1989, if he chose not to resign; and further, Respondent was notified to submit the resignation papers or to file a written statement responding to the letter dated January 30th within thirty (30) days of March 29, 1989.

***2** 4. On March 30, 1989, Respondent received the letter dated March 29, 1989 and signed a return receipt card but did not respond to the March 29th letter or otherwise provide either the documents needed for resignation or a written statement pertaining to the communication received by the Office of Enrollment and Discipline on December 28, 1988, complaining about Respondent's conduct.

5. A letter dated September 19, 1989, was sent by the Office of Enrollment and Discipline to Respondent by certified mail seeking whether or not Respondent desired to remain on the register, and requested that Respondent complete a Data Sheet pursuant to 37 C.F.R. 10.11(b); and further, Respondent was notified that if he desired to remain on the register, he was expected to submit a written reply to the March 29th letter.

6. Respondent did not respond to the letter dated September 19, 1989.

7. On December 12, 1989, the Office of Enrollment and Discipline forwarded to Respondent another Data Sheet and again requested through an accompanying letter that Respondent complete and return the Data Sheet within twenty days.

8. On January 19, 1990, the Office of Enrollment and Discipline received from Respondent a Data Sheet, dated December 30, 1989, which was incomplete inasmuch as Respondent did not answer the question whether he wished to remain on the register; and further, Respondent stated on the Data Sheet, "I wish to withdraw from all applications before the Office."

9. A copy of the Data Sheet dated December 30, 1989, was sent to Respondent with a cover letter querying whether he wanted to remain on

the register, and the Office of Enrollment and Discipline received, on June 20, 1990, the copy back on which Respondent indicated that he wished to remain on the register.

10. By letter dated June 21, 1990, Respondent was notified that inasmuch as he indicated that he wished to remain on the register, he was informed that he had not responded to the request for comments, that a certified mail receipt indicated that he received the original request dated January 30, 1989 on March 30, 1989, that a copy of the January 30th request was enclosed, and that he must respond to the request within thirty days from the date of the June 21st letter. Further, Respondent was reminded of his duty to cooperate with the investigation, and that any failure to submit answers "will be considered misconduct under 37 C.F.R. § § 10.23(c) and 10.24(a) subjecting [him] to disciplinary sanctions."

11. The Office of Enrollment and Discipline has received no response or written statement pertaining to the communication received by the Office of Enrollment and Discipline on December 28, 1988, complaining about Respondent's conduct as of the date of this Complaint and Notice; and further Respondent has failed and/or refused to provide written statement pertaining to the communication received by the Office of Enrollment and Discipline on December 28, 1988, complaining about Respondent's conduct.

CONCLUSION

***3** The conduct set forth above and in paragraphs 1.1 through 1.11 of the Complaint and Notice constitutes professional misconduct which justifies suspension under Part 10, Title 37, Code of Federal Regulations, to wit: 37 C.F.R. 10.23(c)(16); and/or 37 C.F.R. 10.24(a). An indeterminate suspension is appropriate because there has not been a record developed respecting all of the facts at issue. His default has prevented such inquiry. The Respondent may show cause in the future respecting why he failed to respond and furnish some explanation for the charges. Until he does so his name should be stricken from the rolls.

RECOMMENDATION

That Glenn A. Collett of 3590 S.W. 104th Avenue, Beaverton, OR 97005, Patent and Trademark Registration Number 29478, be suspended for an indeterminate period from practice as a patent agent before the United States Patent and Trademark Office, and that the facts and circumstances of this proceeding be fully published in the Patent and Trademark Office's official publication.

The action is recommended under the provisions of Section 32 of Title 35, United States Code, and Section 1.348, Title 37, of the Code of Federal Regulations.

END OF DOCUMENT