SUMMARY: The United States Patent and Trademark Office (Office) published a final rule in the Federal Register on August 14, 2008, adopting new rules governing the conduct of disciplinary investigations, issuing warnings when closing such investigations, disciplinary proceedings, non-disciplinary transfer to disability inactive status and reinstatement to practice before the Office. This document corrects omissions in that final rule and amends the Rules of Practice for consistency with the final rule.

DATES: Effective Date: October 9, 2008.

FOR FURTHER INFORMATION CONTACT:
Harry I. Moatz, Director of Enrollment and Discipline (OED Director), directly by telephone (571) 272–6069, by facsimile to (571) 272–3838, or by mail addressed to: Mail Stop OED—Ethics Rules, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, Virginia 22313–1450.

SUPPLEMENTARY INFORMATION: The Office published a final rule in the Federal Register of August 14, 2008 (73 FR 47650), entitled “Changes to Representation of Others Before the United States Patent and Trademark Office.” In that final rule, 37 CFR 10.4 is replaced and supplemented by § 11.23. Also in that final rule, there are several references to “violation of any of the Mandatory Disciplinary Rules identified in § 10.20(b) of this subchapter.” This document corrects erroneous omissions from that final rule as discussed below.

Section 10.4 inadvertently continued to remain in Part 10 although it should have been removed and reserved. Seven of the examples of conduct that constitute a violation of Mandatory Disciplinary Rule § 10.23—i.e., §§ 10.23(c)(5), (c)(6), (c)(13), (c)(14), (c)(15), (c)(16) and (c)(19)—and Mandatory Disciplinary Rule § 10.31(c) inadvertently continue to refer to rules in Part 10 although the referenced rules have been removed. They should refer to existing rules. This document corrects the text in the provisions of §§ 10.23 and 10.31 to reference the appropriate existing rules.

The final rule is corrected as follows. Section 10.4 is removed and reserved (the substance of § 10.4 has been transferred and supplanted by § 11.23). Section 10.23(c)(5) changes its reference from “§ 10.6(c)” to “§ 11.6(c)” (the substance of the former § 10.6(c) was transferred to § 11.6(c)). Section 10.23(c)(6) changes its reference from “§ 10.158” to “§ 11.58” (the substance of the former § 10.158 was transferred to § 11.58). Section 10.23(c)(13) changes its

Section 165.T11–033 Safety zone; BWRC ‘300’

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Accordingly, the Patent and Trademark Office makes the following correcting amendments to 37 CFR part 10:

PART 10—REPRESENTATION OF OTHERS BEFORE THE PATENT AND TRADEMARK OFFICE

1. The authority citation for 37 CFR part 10 continues to read as follows:


§ 10.4 [Removed and reserved]

2. Section 10.4 is removed and reserved.

3. Section 10.23 is amended by revising paragraph (c) to read as follows:

(c) * * * * *

(5) Suspension or disbarment from practice as an attorney or agent on ethical grounds by any duly constituted authority of a State or the United States or, in the case of a practitioner who resides in a foreign country or is registered under § 11.6(c), by any duly constituted authority of:

(i) A State.

(ii) The United States, or

(iii) The country in which the practitioner resides.

(6) Knowingly aiding or abetting a practitioner suspended or excluded from practice before the Office in engaging in unauthorized practice before the Office under § 11.58.

* * * * *

(13) Knowingly preparing or prosecuting or providing assistance in the preparation or prosecution of a patent application in violation of an undertaking signed under § 11.10(b).

(14) Knowingly failing to advise the Director in writing of any change which would preclude continued registration under § 11.6.

(15) Signing a paper filed in the Office in violation of the provisions of § 11.18 or making a scandalous or indecent statement in a paper filed in the Office.

(16) Willfully refusing to reveal or report knowledge or evidence to the Director contrary to § 10.24 or § 11.22(b).

* * * * *

(19) Action by an employee of the Office contrary to the provisions set forth in § 11.10(d).

* * * * *

4. Section 10.31 is amended by revising paragraph (c) to read as follows:

§ 10.31 Communications concerning a practitioner’s services.

* * * * *

(c) Unless authorized under § 11.14(b), a non-lawyer practitioner shall not hold himself or herself out as authorized to practice before the Office in trademark cases.

Dated: October 1, 2008.

Jon W. Dudas,

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

[FR Doc. E8–23908 Filed 10–8–08; 8:45 am]

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