

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

ARTHUR O. KLEIN, :
Plaintiff, :
V. :
DIRECTOR OF THE UNITED STATES : CASE NO: 3:10-CV-425 (RNC)
PATENT AND TRADEMARK OFFICE, :
ET AL., :
Defendants. :

RULING AND ORDER REGARDING OBJECTIONS TO RECOMMENDED RULING

Plaintiff, a Connecticut lawyer currently under suspension, brings this action pro se and in forma pauperis under the Freedom of Information Act ("FOIA"). He alleges that the United States Patent and Trademark Office ("USPTO") has improperly refused his requests for a fee waiver and expedited processing in connection with his request for production of certain envelopes, which pertain to an attorney disciplinary proceeding the USPTO brought against him in 1984. The complaint seeks a declaration that the refusals are unlawful and an injunction requiring production of the envelopes without delay.

Soon after filing the complaint, the plaintiff moved for (1) entry of a judgment directing the USPTO to conduct a more thorough search for the envelopes; and (2) an order "preliminarily enjoining the USPTO from continuing to deny [the plaintiff's] recognition as a registered patent attorney, USPTO Registration No. 19,102." See Pl.'s Mot. To Enter Judgment at 1

(doc. 5). The motion was referred to Magistrate Judge Martinez for a recommended ruling.

The Magistrate Judge has recommended that the motion for judgment be denied on the grounds that (1) the plaintiff failed to request a prefiling conference before filing the motion and (2) the defendants have yet to be served with the complaint. See Recommended Ruling at 1 (doc. 12). Plaintiff has not objected to this recommendation, which I hereby approve and adopt in the absence of objection.

The Magistrate Judge has recommended that plaintiff's request for a preliminary injunction be denied because (1) he has failed to show that he will suffer irreparable harm in the absence of an injunction and (2) "[o]n the present record, there are no grounds for the court to entertain [the] request for an injunction." Recommended Ruling at 2 (doc. 12). Plaintiff has objected to this recommendation. He states that the USPTO has caused him to be suspended from the practice of law in Connecticut and successfully opposed his reinstatement on at least three occasions. He asserts that the "continuance of this financial strangulation by the [defendant] is obviously causing [him] 'irreparable harm.'" Pl.'s Obj. at 2 (doc. 15).

Plaintiff's request for a preliminary injunction must be denied because his FOIA claims (which are the only claims before this Court) simply do not provide a vehicle for obtaining the extraordinary relief he seeks - an order enjoining the USPTO

from refusing to recognize him as a patent attorney in good standing. Success on the merits of plaintiff's FOIA claims (in other words, a determination that his requests for a fee waiver and expedited processing have been improperly denied) would provide no basis for an order requiring the USPTO to recognize him as an attorney in good standing. Because plaintiff cannot obtain this form of relief even if he prevails on the merits, he is not entitled to it now.

Accordingly, the Magistrate Judge's recommended ruling is hereby approved and adopted and plaintiff's motion for entry of judgment and a preliminary injunction is hereby denied in its entirety.

So ordered this 22nd day of April 2010.

/s/RNC

Robert N. Chatigny
United States District Judge