



**BEFORE THE BOARD OF DISCIPLINARY APPEALS  
APPOINTED BY THE  
SUPREME COURT OF TEXAS**

**IN THE MATTER OF  
HAO NI,  
STATE BAR CARD NO. 24047205**

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**CAUSE NO. 71675**

**JUDGMENT DENYING RECIPROCAL DISCIPLINE**

On the 24th day of April, 2026, the above-styled and numbered reciprocal disciplinary action was called for hearing before the Board of Disciplinary Appeals. The Commission for Lawyer Discipline, Petitioner, appeared by attorney and announced ready. Respondent, Hao Ni, appeared and announced ready. All questions of fact and all issues of law were submitted to the Board of Disciplinary Appeals for determination. Having considered the pleadings on file, having received evidence, and having heard the parties' arguments, the Board of Disciplinary Appeals makes the following findings, conclusions, and orders:

**Findings of Fact.** The Board of Disciplinary Appeals finds as follows:

- (1) Respondent, Hao Ni, Bar Card No. 24047205, is an attorney licensed and authorized by the Supreme Court of Texas to practice law in the State of Texas.
- (2) On March 31, 2025, the Director of the United States Patent and Trademark Office (USPTO) issued a Final Order in the matter styled *In the Matter of Hao Ni*, No. D2025-14, approving a proposed settlement agreement based on joint stipulated facts, joint legal conclusions, and an agreed sanction. The Final Order reflects the USPTO's conclusion that:

Respondent acknowledges that, based on the information contained in the Joint Stipulated Facts, above, Respondent's acts and omissions violated the following provisions of the USPTO Rules of Professional Conduct:

- a. 37 C.F.R. § 11.101 (requiring a practitioner to provide competent representation to a client) by, *inter alia*, (i) representing clients before the Office in trademark matters without understanding adequately the USPTO trademark signature rules or TMEP direction; and (ii) presenting trademark documents (including declarations) to the USPTO that violated the USPTO trademark signature rules and TMEP direction;
  - b. 37 C.F.R. § 11.103 (not acting with reasonable diligence in representing a client) by, *inter alia*, by presenting trademark documents (including declarations) to the USPTO that violated the USPTO trademark signature rules and TMEP direction;
  - c. 37 C.F.R. § 11.503 (a) and (b) (responsibilities over non-practitioner assistants) by, *inter alia*, not supervising adequately a non-practitioner assistant (i.e., his paralegals) in that he did not implement adequate controls and measures to ensure that his paralegals did not enter his signature on trademark documents and sworn declarations presented to the USPTO;
  - d. 37 C.F.R. § 11.804(c) (engaging in conduct involving misrepresentation) by, *inter alia*, presenting approximately 4,367 trademark documents (including declarations) to the USPTO that were signed by other than the named signatory; and
  - e. 37 C.F.R. § 11.804(d) (engaging in conduct prejudicial to the administration of the USPTO trademark registration system) by, *inter alia*, presenting approximately 4,367 trademark documents (including declarations) to the USPTO that were signed by other than the named signatory.
- (3) Under the Final Order referenced in paragraph (2), above, Respondent was publicly reprimanded and placed on probation for twenty (20) months.
  - (4) The Final Order entered by the USPTO is final.
  - (5) Respondent, Hao Ni, is the same person as the Hao Ni who is the subject of the Final Order entered by the USPTO.

- (6) Respondent filed a timely answer raising defenses under Texas Rule of Disciplinary Procedure 9.04(C), (D), and (E).

**Conclusions of Law.** Based upon the foregoing findings of facts, the Board of Disciplinary Appeals makes the following conclusions of law:

- (1) This Board has jurisdiction to hear and determine this matter. TEX. RULES DISCIPLINARY P. R. 7.08(H).
- (2) When the conduct for which a Texas-licensed lawyer was disciplined occurred in another jurisdiction, including before a federal agency, that jurisdiction's final adjudication as to conduct that violates one or more of the Texas Disciplinary Rules of Professional Conduct is conclusive for purposes of reciprocal discipline, subject to any defenses timely raised under Texas Rule of Disciplinary Procedure 9.04. TEX. RULES DISCIPLINARY P. R. 9.01, 1.06(CC)(2).
- (3) While the Texas Disciplinary Rules of Professional Conduct contain provisions similar to the USPTO professional conduct rules Respondent was found to have violated, the USPTO's Final Order describes each rule violation with reference to conduct that relates directly to Respondent's failure to comply with the USPTO's electronic signature requirements in 37 C.F.R. § 2.193.
- (4) Respondent was not disciplined for conduct that constitutes "Professional Misconduct" as defined by Texas Rule of Disciplinary Procedure 1.06(CC).
- (5) Respondent also proved by clear and convincing evidence one or more of the defenses listed in Texas Rule of Disciplinary Procedure 9.04.
- (6) No reciprocal discipline is warranted in this case. *See* TEX. RULES DISCIPLINARY P. R. 9.01, 9.04.

It is, accordingly, **ORDERED, ADJUDGED, and DECREED** that the Petition for Reciprocal Discipline is **DENIED**.

Signed this 15<sup>th</sup> day of May 2026.



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**CHAIR PRESIDING**

Board member Fernando Bustos, joined by Scott Fredricks, concurs.

Board member Jason Boatright, joined by W.C. Kirkendall and Tanner Neidhardt, dissents.

Board members Woodrow Halstead and David Iglesias did not participate in this decision.

**Fernando Bustos, joined by Scott Fredricks, concurring.**

I write to concur in the judgment, and to address the dissent.

*1. Standard for imposing reciprocal discipline*

The Texas Rules of Disciplinary Procedure (TRDP) require that for reciprocal discipline to be imposed, there must be a showing that the respondent committed “Professional Misconduct.” TEX. RULES DISCIPLINARY P. R. 9.01 (“A certified copy of the order or judgment is prima facie evidence of the matters contained therein, and a final adjudication in another jurisdiction that an attorney licensed to practice law in Texas has committed Professional Misconduct is conclusive for the purposes of a Disciplinary Action under this Part, subject to the defenses set forth in Rule 9.04 below.”). “Professional Misconduct includes . . . [a]ttorney conduct that occurs in another jurisdiction, including before any federal court or federal agency, and results in the disciplining of an attorney in that other jurisdiction, *if the conduct is Professional Misconduct under the Disciplinary Rules of Professional Conduct.*” *Id.* R. 1.06(CC)(2) (emphasis added). Because Rule 9.01 utilizes the capitalized term “Professional Misconduct,” this invokes the specific definition contained in Rule 1.06(CC), which specifically indicates that reciprocal discipline proceedings must be based on conduct that also violates the Texas Disciplinary Rules of Professional Conduct (TDRPC).

But even if this capitalization were merely an oversight, the defense contained in Rule 9.04(E) allows an attorney disciplined in another jurisdiction to avoid reciprocal discipline by timely raising and then proving by clear and convincing evidence “that the misconduct for which

the attorney was disciplined in the other jurisdiction does not constitute Professional Misconduct in this state.” Thus, in two independent ways, the TRDP ensure that we only impose reciprocal discipline for conduct that is also violative of the TDRPC.

2. *Under Texas law, is failure for an attorney to personally sign their name on a trademark application “Professional Misconduct”?*

Under Texas trademark law, a lawyer does not need to personally type in her or his signature, unlike the USPTO requirement. There is no Texas statute or rule equivalent to USPTO’s rule that requires that an electronic signature be “personally entered by the person named as the signatory,” which is the USPTO’s requirement. 37 C.F.R. § 2.193.

An application for a Texas trademark must include either a verification made under oath (signed before a notary) or an unsworn declaration made under penalty of perjury that the contents of the application are true and correct. 1 TEX. ADMIN. CODE § 93.33. There is nothing that prevents a valid unsworn declaration from containing an electronic signature, and no rule or law prohibits a lawyer from directing an assistant to enter the keystrokes of the lawyer’s electronic signature on such a declaration.

Contrast this with USPTO’s very specific signature rules. Any correspondence requiring a signature, including trademark applications, must bear either a handwritten signature “personally signed” by the person named as signatory, or an electronic signature “personally entered” by the person named as signatory. 37 C.F.R. § 2.193(a)(1)-(2). The rules go on to say that when signing a document electronically, the signatory must “[p]ersonally enter any combination of letters, numbers, spaces, and/or punctuation marks that the signer has adopted as a signature, placed between forward slash (/) symbols in the signature block on the electronic submission.” *Id.* § 2.193(c)(1).

Thus, Texas trademark law contains no such requirement for the signatory to personally enter their electronic signature. Practically speaking, trademark applications must contain an electronic signature, as they now must be submitted electronically through the Texas Secretary of State's portal. The application submitted through the portal requires a signature below a statement that "By signing (or typing if electronic submission) your name below, you acknowledge that you are signing (or electronically signing) this document as the Owner (Applicant) or an Authorized Representative of the Owner (Applicant) of the Trademark and/or Service Mark." While that may imply that the signatory should personally enter the keystrokes of their electronic signature, there is nothing indicating that an assistant cannot enter the keystrokes for the signatory's electronic signature, at the signatory's direction, as there is with a USPTO trademark application. The USPTO's requirement is explicit, and no corresponding requirement exists under Texas law.

The Uniform Electronic Transaction Act (UETA), in Chapter 332 of the Business and Commerce Code, is the Texas law that governs the use of electronic signatures. An "electronic signature" is defined as "an electronic sound, symbol, or process attached to or logically associated with a record and executed *or adopted* by a person with the intent to sign the record." TEX. BUS. & COM. CODE § 322.002(8) (emphasis added). The law contains some exceptions, but none that would relate to a trademark application. *See id.* § 322.003. "An electronic record or electronic signature is attributable to a person if it was the act of the person. The act of the person may be shown *in any manner, including* a showing of the efficacy of any security procedure applied to determine the person to which the electronic record or electronic signature was attributable." *Id.* § 322.009(a) (emphasis added).

Whether the person intended to be bound by the electronic signature is determined from the context and surrounding circumstances at the time of its creation, execution, or adoption,

including the parties' agreement, if any, and otherwise as provided by law. *Id.* § 322.009(b). Most often, these provisions come into play where a party is attempting to assert that they did not sign a document, such as an arbitration agreement in a digital employment application. *See, e.g., Aerotek, Inc. v. Boyd*, 624 S.W.3d 199, 205 (Tex. 2021). Such cases often turn on technical factors related to the system by which the signature was input. But, given the broad definition of how an electronic signature can be executed and the broad manner in which an electronic signature can be proved up, a valid digital signature can be executed by an attorney instructing an employee to affix his/her digital signature to a document, including an unsworn declaration for a trademark application. In fact, lawyers across the state regularly have assistants attach their electronic signatures on pleadings and other documents, including unsworn declarations. Were a dispute to arise, testimony from the attorney and/or the assistant would likely be sufficient to prove the attorney's intent to sign the document.

3. *Not imposing reciprocal discipline would be consistent with our decision in Oldham*

These differences between the USPTO trademark application requirements and those of Texas lead to a conclusion consistent with our recent decision in *Oldham*—there is nothing in the TDRPC that would require a lawyer submitting a trademark application to personally enter the keystrokes for his electronic signature. *In the Matter of Oldham*, BODA Case No. 70709 (May 9, 2025). In *Oldham*, we concluded that conduct relating directly to the failure to comply with the USPTO's electronic signature requirements does not constitute Professional Misconduct as defined by the rules, satisfies at least one defense, and does not warrant reciprocal discipline.

4. *USPTO's findings compel this result in this case*

Because all the discipline imposed by the USPTO in its Final Order was predicated upon Mr. Ni's violations of the USPTO's unique signature requirement, as a matter of Texas law I

cannot find “Professional Misconduct.” I also believe that ordering reciprocal discipline based on conduct solely related to the USPTO’s electronic signature requirements, for discipline limited to trademark practice before the USPTO, would be a grave injustice. It is both necessary and appropriate that the discipline in such matters be limited to a lawyer’s trademark practice before the USPTO.

However, had the USPTO made independent findings and conclusions untethered to its signature rule, such as lack diligence in other respects or fraudulent conduct, I would find that reciprocal discipline would be in order, since those actions would be Professional Misconduct under the TDRPC. This is not splitting hairs. Federalism is important, and we must guard our jurisdiction and not sanction attorneys for conduct that is not Professional Misconduct under Texas law.

Contrary to my dissenting colleagues’ view, their focus on the underlying conduct as it relates to another jurisdiction’s particular procedural rules improperly shifts the focus of the inquiry for reciprocal discipline. Because all jurisdictions have disciplinary rules that prohibit acts like incompetence, neglect, and dishonesty, the inquiry under Rule 9.01 and the corresponding defense under Rule 9.04(E) properly focuses on whether Texas regards the underlying conduct as violative of our similarly drafted rules. Here, it does not.

I have the growing sense that we will see more of these types of reciprocal discipline cases coming after disciplinary action by the USPTO. In subsequent cases, if the USPTO entered separate findings of violations of their rules not reliant upon a violation of their signature rule, which would equal Professional Misconduct under TDRPC, then reciprocal discipline would be appropriate. I share the dissent’s concern of lawyers operating trademark “mills” where attorneys do not personally review the content of applications, have no contact with their clients during

representation, and allow unlicensed staff to engage in the practice of law. Where independent findings of such misconduct occur, there are analogues under TDRPC which we can employ to impose reciprocal discipline.

**Jason Boatright, joined by W.C. Kirkendall and Tanner Neidhardt, dissenting.**

We conclude that reciprocal discipline is unwarranted because Ni was disciplined for conduct that was not “Professional Misconduct” in Texas. But Ni was disciplined for misrepresentation, incompetence, and inadequate supervision of assistants, all of which are Professional Misconduct here. We try to get around that problem by suggesting that the USPTO described each of Ni’s rule violations “with reference to conduct that relates directly” to USPTO “electronic signature requirements” that, we imply, are not similar to Texas electronic signature requirements. So even though Ni did make misrepresentations and inadequately supervise his assistants and display a lack of competence, we argue that none of his conduct is Professional Misconduct because the USPTO’s judgment refers to a rule that is different from the rule in Texas.

I think we are wrong and I write separately to explain why.

1. *Ni’s underlying conduct—directing his assistants to enter his electronic signature on trademark applications—violates Texas rules.*

Ni instructed his paralegals to enter his electronic signature on thousands of trademark applications submitted to the USPTO on behalf of his clients. His conduct violated a USPTO rule requiring that trademark applications bear a handwritten signature “personally signed,” or an electronic signature “personally entered,” by the named signatory. 37 C.F.R. § 2.193(a)(1), (2). Our Judgment is premised on the idea that the Texas rules are different. We suggest that because Texas rules do not require trademark applications to bear an electronic signature personally entered by the signatory, Ni’s conduct at the USPTO does not constitute Professional Misconduct in Texas.

However, Texas rules require that trademark applications be signed and verified. 1 TEX. ADMIN. CODE § 93.33(a). It is undisputed that Ni did not sign and verify his trademark applications at the USPTO. Thus, if Ni did exactly the same thing in Texas that he did at the USPTO—direct his assistants to enter his electronic signature on trademark applications—his conduct would violate the Texas trademark signature requirements. So yes, the Texas and USPTO signature requirements are different, but Ni’s signature is no less forbidden here than it was there.

2. *What really matters, though, is that Ni’s overlying conduct—the lack of competence and supervision, and the misrepresentation—is Professional Misconduct in Texas.*

I am not aware of any Texas rule or judicial opinion that supports the Judgment’s theory of reciprocal discipline. There appears to be no legal authority of any kind for the idea that reciprocal discipline has to be denied if the other jurisdiction’s order refers to rules that are different from Texas rules. On the contrary, the text of the Texas Rules of Disciplinary Procedure shows that reciprocal discipline can be imposed even when the other jurisdiction’s requirements are different from ours; we would not be allowed to impose identical discipline “to the extent practicable” otherwise. TEX. RULES DISCIPLINARY P. R. 9.03.

That inference is supported by the fact that very few disciplinary rules in other states are the same as ours. There will almost always be differences between the disciplinary rules at issue in reciprocal discipline cases, yet reciprocal discipline still exists, and the Rules of Disciplinary Procedure are written in a way that strongly suggests we are expected to impose it more often than not. *See id.* R. 9.04 (requiring us to impose reciprocal discipline unless the respondent proves a defense by clear and convincing evidence).

It seems pretty clear to me, then, that we should approach reciprocal discipline cases at a level of abstraction in which the proper inquiry is not whether the other jurisdiction’s rule is the same as the rule in Texas, but whether—in the words of the Rule of Disciplinary Procedure that

governs us here—“the misconduct for which the attorney was disciplined in the other jurisdiction does not constitute Professional Misconduct in this state.” *Id.* R. 9.04(E).

Deciding reciprocal discipline cases by determining whether the underlying rule in another jurisdiction is the same as a rule in Texas, which is what the Judgment does, is radically different from deciding reciprocal discipline by determining whether the misconduct in another jurisdiction is Professional Misconduct in Texas, which is what the governing text requires. A simple scenario illustrates what I mean.

Assume for the sake of discussion that a Texas lawyer is practicing in a state that has a three-year statute of limitations for breach of contract claims. The lawyer files many contract claims across multiple cases within four years but not the requisite three. Meanwhile, the lawyer repeatedly lies to his clients and the courts in that state about matters related to missing the three-year deadline, and he tells his assistants to ignore or violate the deadline too. Eventually, that state’s bar finds out about all this and suspends him for misrepresentation, incompetence, and inadequate supervision. The CDC then files a petition for reciprocal discipline in Texas asking us to suspend the lawyer for Professional Misconduct under analogous Texas Disciplinary Rules of Professional Conduct (“Disciplinary Rules”).

Would we deny reciprocal discipline because Texas has a four-year statute of limitations and all the claims the lawyer filed in the other state would have been filed in time here?

No, I think we would grant reciprocal discipline. We would grasp that the lawyer was not, or not just, disciplined in the other state for filing a claim in four years rather than three, but for repeatedly failing to file claims within the requisite period of time, however long or short that period may be.

We should focus on the repeated failure to meet the applicable requirement—and of course the lying and inadequate supervision surrounding the failure—rather than the differences between the details of the requirements in Texas and the other jurisdiction.

If we focused on Ni’s conduct, as we should, we would find that he has engaged in Professional Misconduct in Texas. Professional Misconduct includes acts or omissions by an attorney that violate a Texas Disciplinary Rule. *See* TEX. RULES DISCIPLINARY P. R. 1.06(CC)(1). Violating applicable requirements thousands of times would display a lack of competence and violate a Texas Disciplinary Rule. *See* TEX. DISCIPLINARY RULES PROF’L CONDUCT R. 1.01(a) (a lawyer shall not continue employment in a legal matter he knows or should know is beyond his competence). Similarly, ordering or permitting assistants to violate applicable requirements would display a lack of adequate supervision and violate a Disciplinary Rule. *See id.* R. 5.03(a)-(b)(1) (a lawyer shall be subject to discipline for ordering or permitting a non-lawyer to engage in conduct that is incompatible with the lawyer’s professional obligations). And representing that something is not what it actually is would violate another Disciplinary Rule. *See id.* R. 8.04(a)(3) (a lawyer shall not engage in conduct involving misrepresentation).

Incidentally, the CDC’s petition for reciprocal discipline did not just ask us to sanction Ni for misrepresentation, incompetence, and inadequate supervision, but also for engaging in “conduct constituting obstruction of justice” under Disciplinary Rule 8.04(a)(4). But the USPTO did not find that Ni violated a rule prohibiting obstruction of justice; it found that Ni violated 37 C.F.R. § 11.804(d), which provides that engaging “in conduct prejudicial to the administration of justice” is “professional misconduct” at the USPTO. Ni’s conduct may or may not have been prejudicial to the administration of justice, but it was not obstruction of justice.

Ni's conduct would, however, amount to misrepresentation, incompetence, and inadequate supervision in violation of Texas Disciplinary Rules. *See* TEX. DISCIPLINARY RULES PROF'L CONDUCT R. 1.01(a), .03(a)-(b)(1), 8.04(a)(3). Thus, his conduct constitutes Professional Misconduct. *See* TEX. RULES DISCIPLINARY P. R. 1.06(CC)(1).

3. *Policy arguments weigh in favor of granting reciprocal discipline here.*

I think the text of the Rules of Disciplinary Procedure should govern our decision, but there are policy arguments that may be worthy of consideration as well.

A. *Directing someone else to put a lawyer's signature on a trademark application is a serious problem and we should impose reciprocal discipline to discourage it.*

The USPTO considers what Ni did to be a scam<sup>1</sup> and a real<sup>2</sup> fraud<sup>3</sup> problem.<sup>4</sup> In recent congressional testimony,<sup>5</sup> the Director of the USPTO testified that preventing conduct like Ni's is a means of stopping trademark fraud. Thus, the USPTO's requirement that named signatories personally enter their signatures on trademark applications is not pointless bureaucratic red tape, but a way to make sure that the information in trademark applications is true<sup>6</sup> so there is no fraud.

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<sup>1</sup> *Recognizing common scams*, USPTO, <https://www.uspto.gov/trademarks/protect/recognizing-common-scams> (last visited May 14, 2026).

<sup>2</sup> *USPTO has terminated more than 52,000 fraudulently filed trademark applications and registrations*, USPTO, <https://www.uspto.gov/about-us/news-updates/uspto-has-terminated-more-52000-fraudulently-filed-trademark-applications-and> (Aug. 8, 2025).

<sup>3</sup> *USPTO terminates patent application proceedings for fraudulent use of signature*, USPTO, <https://www.uspto.gov/about-us/news-updates/uspto-terminates-patent-application-proceedings-fraudulent-use-signature> (Oct. 2, 2024).

<sup>4</sup> *Hear how we're combating trademark fraud*, USPTO, <https://www.uspto.gov/subscription-center/2025/hear-how-were-combating-trademark-fraud> (June 20, 2025).

<sup>5</sup> *Statement of John A. Squires, Under Secretary of Commerce for Intellectual Property and Director of the USPTO, Before the Subcommittee on Courts, Intellectual Property, Artificial Intelligence and the Internet, Committee on the Judiciary, United States House of Representatives, "Oversight of the U.S. Patent and Trademark Office,"* <https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/squires-testimony.pdf> (Mar. 25, 2026).

<sup>6</sup> *USPTO Hour: combating trademark fraud and threats*, USPTO, <https://www.uspto.gov/sites/default/files/documents/tm-uspto-hour-trademarks-june-2025.pdf> (last visited May 14, 2026).

Sanctioning Texas attorneys who violate other jurisdictions' rules against dishonesty and fraud strikes me as an *excellent* use of the reciprocal discipline process. Imposing reciprocal discipline would not only be just in this case, it would also help protect people from fraud in the future. Conversely, our failure to impose reciprocal discipline here could cause real harm to the people of this state in the years ahead.

Texas lawyers who practice at the USPTO will eventually hear about cases like this one, and the less scrupulous among them will come to know that they can submit thousands of improper trademark applications with zero consequences for their ability to practice law in Texas. This will encourage dishonesty and fraud among patent and trademark lawyers already licensed in Texas. Perhaps even worse, it will invite dishonest lawyers from outside the state to set up shop here, where they know they will be able to represent clients and practice in the courts of this state regardless of their dishonest and fraudulent conduct at the USPTO. That is precisely the opposite of what we should be doing in reciprocal discipline cases.

I hasten to add that I do not know whether Ni intended to deceive anyone at the USPTO. It is entirely possible that he simply made a series of honest mistakes. In fact, the USPTO noted that he was contrite, and when he appeared before us he struck me as a decent man who might have simply failed to dot his i's and cross his t's.

Nevertheless, his conduct did violate USPTO and Texas rules, so we had an obligation to impose reciprocal discipline in this case. Our failure to meet that obligation will encourage misconduct that the attorney-discipline system is meant to discourage.

*B. Precedent does not require that we deny reciprocal discipline.*

Our Judgment in this case adopts the reasoning of our Judgment in the *Oldham* case from last year. *In the Matter of Oldham*, BODA Case No. 70709 (May 9, 2025). There as here, we

acknowledged that there were similarities between the USPTO and Texas trademark signature requirements, but we suggested that the USPTO's requirements were different from those in Texas, and we decided not to impose reciprocal discipline.

It may be tempting to treat *Oldham* as a precedent that compels our decision in *Ni*, but I do not think it does. We are not custodians of an independent body of background law, like the common law of England and the Texas Supreme Court. Partly for that reason, we are bound vertically by decisions of that Court, but not horizontally by ourselves. Similarly, we are bound by the rules that the Supreme Court approves, but our judgments are not actually rules of decision.

When presented with a choice between the Supreme Court's rules and our prior decisions, the rules must win because they have binding force on us and our prior decisions do not.

Of course we should be consistent across similar cases if possible; reliability and predictability are good. But I dissented in *Oldham* because it was wrong, and decisions that are wrong are not good. More to the point, no theory of precedent requires us to persist in error here.

*C. If we apply the Judgment's reasoning consistently in future cases, we will almost always deny reciprocal discipline even when we should grant it.*

According to the Judgment, we are denying reciprocal discipline because the USPTO's order refers to electronic signature requirements that are different from those in Texas. But other jurisdictions' rules are almost always different from ours, so if it is our policy to deny reciprocal discipline when rules differ, we would almost always deny reciprocal discipline.

I do not think it wise to create a policy that, if followed consistently, would practically destroy reciprocal discipline in Texas. If the Texas Supreme Court wants to impose additional restrictions on reciprocal discipline, it certainly can, but we cannot.

Instead of employing a highly restrictive and bright-line rule of our own devising, I think we should approach each reciprocal discipline case on its own merits and, consistent with the text

of the Rules of Disciplinary Procedure and guided by reasoned judgment, we should determine whether misconduct in the other jurisdiction is Professional Misconduct here.

By “reasoned judgment,” I mean the application of common sense, legal knowledge, and experience that allows us to understand, intuitively, that repeatedly violating a different state’s three-year statute of limitations would constitute Professional Misconduct in Texas even though we have a four-year statute of limitations here. This kind of reasoning is a legitimate aid to judicial decisionmaking because it helps identify and faithfully interpret the governing text.

For example, reasoned judgment enables us to grasp that the governing text of a reciprocal discipline case involving the three-year statute of limitations in another state is not really the statute of limitations itself, but the Texas judicial decisions, disciplinary rules, and rules of procedure that bind us in attorney-discipline cases. In this way, reasoned judgment can help us impose reciprocal discipline in appropriate cases.

Reasoned judgment can help us deny reciprocal discipline in appropriate cases as well. For example, it would enable us to see that a Texas lawyer who violates some far-away state’s politicized attorney-speech restrictions would not warrant discipline in Texas, because there is no sensible level of abstraction at which his conduct could also violate a Texas Disciplinary Rule. But if the attorney lied about the speech and encouraged others to do so as well, his conduct likely *would* constitute Professional Misconduct in Texas. The salient point is that the question to answer in reciprocal discipline cases is not whether the details of the specific underlying requirements in another jurisdiction are identical to those in Texas; it is whether the conduct in the other jurisdiction would be Professional Misconduct according to Texas Disciplinary Rules.

Answering that question is the stuff of judging, and it is preferable to the invention of a bright-line rule or multifactor test that might sound good in theory but never really works, for very long at least, in practice. The Judgment’s bright-line rule in this case illustrates the point.

By denying reciprocal discipline simply because the underlying conduct violated USPTO rules that are not identical to Texas rules, we have allowed a Texas lawyer to engage in classic, textbook Professional Misconduct—like misrepresentation, incompetence, and inadequate supervision—free from any consequences here. And having permitted Professional Misconduct in this case, our bright-line rule will invite more of it in the future. I think this suggests that we have invented the wrong rule.

4. *It is practicable to impose reciprocal discipline in this case.*

Because I do not think Ni has proven a defense by clear and convincing evidence, we have to impose reciprocal discipline in this case. *See* TEX. RULES DISCIPLINARY P. R. 9.01, .04. That discipline must be “identical, to the extent practicable, with that directed by the judgment of the other jurisdiction . . . .” *Id.* R. 9.04. In this context, the word “practicable” means “capable of being put into practice, carried out in action, effected, accomplished, or done; feasible.” XII OXFORD ENGLISH DICTIONARY 269 (2d. ed. 1989).

The USPTO publicly reprimanded Ni and imposed twenty months of probation for violating four USPTO rules. The facts and law of this case show that three of Ni’s violations—37 C.F.R. §§ 11.101 (competence), .503 (inadequate supervision), and .804(c) and (d) (misrepresentation)—would also violate Texas Disciplinary Rules and constitute Professional Misconduct. I think it is feasible to reprimand Ni publicly and impose twenty months of probation for violating those three Texas Disciplinary Rules. Therefore, it is practicable to impose reciprocal discipline in this case.