

(e) *Reconsideration of matters decided by a former OED Director or USPTO Director.* Matters which have been decided by one OED Director or USPTO Director will not be reconsidered by his or her successor except if a request for reconsideration of the decision is filed within the 30-day period permitted to request reconsideration of said decision provided for in paragraphs (c) and (d) of this section.

§ 11.3 Suspension of rules, qualified immunity.

(a) Except as provided in paragraph (b) of this section, in an extraordinary situation, when justice requires, any requirement of the regulations of this Part which is not a requirement of statute may be suspended or waived by the USPTO Director or the designee of the USPTO Director, *sua sponte* or on petition of any party, including the OED Director or the OED Director's representative, subject to such other requirements as may be imposed.

(b) No petition to waive any provision of §§ 11.19, 11.24, 11.100 through 11.901, or to waive the provision in this paragraph shall be granted for any reason.

(c) No petition under this section shall stay a disciplinary proceeding unless ordered by the USPTO Director or a hearing officer.

(d) Complaints submitted to the OED Director or any other official of the Office shall be qualifiedly privileged for the purpose that no claim or action in tort predicated thereon may be instituted or maintained. The OED Director, and all staff, assistants and employees of the Office of General Counsel, Solicitor's Office, the Office of Enrollment and Discipline, and the members of the Committee on Discipline, the Committee on Enrollment, the employees of the Office providing regrades of examinations, and employees of the Office developing questions for the registration examination shall be immune from disciplinary complaint under this Part for any conduct in the course of their official duties.

Subpart B—Recognition To Practice Before the USPTO

Patents, Trademarks, and Other Non-Patent Law

§ 11.4 Committee on Enrollment.

(a) The USPTO Director shall establish a Committee on Enrollment composed of one or more employees of the Office.

(b) The Committee on Enrollment shall, as necessary:

(1) Advise the OED Director in connection with the OED Director's duties under § 11.2(b)(1), and

(2) In circumstances provided for in § 11.7(j)(2), determine the moral character and reputation of an individual whom the OED Director does not accept as having good moral character and reputation.

§ 11.5 Register of attorneys and agents in patent matters; practice before the Office.

(a) *Register of attorneys and agents.* A register of attorneys and agents is kept in the Office on which are entered the names of all individuals recognized as entitled to represent applicants having prospective or immediate business before the Office in the preparation and prosecution of patent applications. Registration in the Office under the provisions of this Part shall entitle the individuals so registered to practice before the Office only in patent matters.

(b) *Practice before the Office.* Practice before the Office includes law-related service that comprehends all matters connected with the presentation to the Office or any of its officers or employees relating to a client's rights, privileges, duties, or responsibilities under the laws or regulations administered by the Office for the grant of a patent, registration of a trademark, or conduct of other non-patent law. Such presentations include preparing necessary documents, corresponding and communicating with the Office, and representing a client through documents or at interviews, hearings, and meetings, as well as communicating with and advising a client concerning matters pending or contemplated to be presented before the Office. Practice before the Office:

(1) In patent matters includes, but is not limited to, preparing and prosecuting any patent application, considering and advising a client as to the patentability of an invention under statutory criteria; considering the advisability of relying upon alternative forms of protection that may be available under State law; participating in drafting the specification or claims of a patent application; participation in drafting an amendment or reply to a communication from the Office that may require written argument to establish the patentability of a claimed invention; participating in drafting a reply to a communication from the Office regarding a patent application, and participating in the drafting of a communication for a public use, interference, or reexamination proceeding;

(2) In trademark matters includes, but is not limited to, preparing and

prosecuting an application for trademark registration; preparing an amendment which may require written argument to establish the registrability of the mark; conducting an opposition, cancellation, or concurrent use proceeding; or an appeal to the Trademark Trial and Appeal Board; and

(3) In private as well as other professional matters includes conduct reflecting adversely on a person's fitness to practice law, such as, but not limited to, the good character and integrity essential for a practitioner in patent, trademark, or other non-patent law matters.

§ 11.6 Registration of attorneys and agents.

(a) *Attorneys.* Any citizen of the United States who is an attorney and who fulfills the requirements of this Part may be registered as a patent attorney to practice before the Office. When appropriate, any alien who is an attorney, who lawfully resides in the United States, and who fulfills the requirements of this Part may be registered as a patent attorney to practice before the Office, provided that such registration is not inconsistent with the terms upon which the alien was admitted to, and resides in, the United States and further provided that the alien may remain registered only:

(1) If the alien continues to lawfully reside in the United States and registration does not become inconsistent with the terms upon which the alien continues to lawfully reside in the United States, or

(2) If the alien ceases to reside in the United States, the alien is qualified to be registered under paragraph (c) of this section. *See also* § 11.9(b).

(b) *Agents.* Any citizen of the United States who is not an attorney and who fulfills the requirements of this Part may be registered as a patent agent to practice before the Office. When appropriate, any alien who is not an attorney, who lawfully resides in the United States, and who fulfills the requirements of this Part may be registered as a patent agent to practice before the Office, provided that such registration is not inconsistent with the terms upon which the alien was admitted to, and resides in, the United States, and further provided that the alien may remain registered only:

(1) If the alien continues to lawfully reside in the United States and registration does not become inconsistent with the terms upon which the alien continues to lawfully reside in the United States or

(2) If the alien ceases to reside in the United States, the alien is qualified to be