

(3) Fail to disclose to the Office legal authority in the controlling jurisdiction known to the practitioner to be directly adverse to the position of the client and not disclosed by opposing counsel; or

(4) Offer evidence that the practitioner knows to be false or misleading. If a practitioner has offered material evidence and comes to know of its falsity or that it is misleading, the practitioner shall take reasonable remedial measures. If a practitioner has offered evidence in the Office material to patentability in regard to a patent or patent application, and comes to know of its falsity or that it is misleading, the practitioner shall disclose to the Office in writing information regarding the falsity or that it is misleading with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned.

(b) The duties stated in paragraph (a) of this section continue to the conclusion of the proceeding, and apply even if compliance requires disclosure of information otherwise protected by § 11.106.

(c) A practitioner, in regard to practice before the Office, may refuse to offer evidence that the practitioner reasonably believes is false or misleading.

(d) In a proceeding before the Office other than those involving the granting of a patent or registration of a mark, a practitioner shall inform the Office of all material facts known to the practitioner that will enable the Office to make an informed decision, whether or not the facts are adverse. In a patent proceeding before the Office, a practitioner shall inform the Office of all information material to patentability known to the practitioner in accordance with § 1.56, whether or not such information is adverse.

(e) Conduct that constitutes a violation of paragraphs (a) through (d) of this section includes, but is not limited to:

(1) Knowingly misusing a "Certificate of Mailing or Transmission" under § 1.8 of this subchapter;

(2) Knowingly violating or causing to be violated the requirements of §§ 1.56 or 1.555 of this subchapter;

(3) Except as permitted by § 1.52(c) of this subchapter, knowingly filing or causing to be filed a patent application containing any material alteration made in the application papers after the signing of the accompanying oath or declaration without identifying the alteration at the time of filing the application papers;

(4) Knowingly signing a paper filed in the Office in violation of the provisions

of § 11.18 or making a scandalous statement in a paper filed in the Office; and

(5) Knowingly giving false or misleading information or knowingly participating in a material way in giving false or misleading information, to the Office or any employee of the Office.

§ 11.304 Fairness to opposing party, the Office, and counsel.

A practitioner, in regard to practice before the Office, shall not:

(a) Unlawfully obstruct another party's access to evidence or unlawfully alter, destroy or conceal documents or other material having potential evidentiary value. A practitioner shall not counsel or assist another person to do any such act;

(b) Falsify evidence, counsel or assist a witness to testify falsely, or offer an inducement to a witness that is prohibited by law;

(c) Knowingly disobey an obligation under the rules of the Office except for an open refusal based on an assertion that no valid obligation exists;

(d) In an *inter partes* proceeding before the Office, make a frivolous discovery request, or fail to make a reasonably diligent effort to comply with a legally proper discovery request by an opposing party;

(e) In a proceeding before the Office, allude to any matter that the practitioner does not reasonably believe is relevant or that will not be supported by admissible evidence, assert personal knowledge of facts in issue except when testifying as a witness, or state a personal opinion as to the justness of a cause, the credibility of a witness, the culpability of a civil litigant, or the guilt or innocence of an accused; or

(f) Request a person other than a client to refrain from voluntarily giving relevant information to another party unless:

(1) The person is a relative or an employee or other agent of a client; and

(2) The practitioner reasonably believes that the person's interests will not be adversely affected by refraining from giving such information.

§ 11.305 Impartiality and decorum of the tribunal.

A practitioner shall not:

(a) Seek to influence an administrative law judge, administrative patent judge, administrative trademark judge, hearing officer, tribunal, employee of a tribunal, or other official by means prohibited by law;

(b) Communicate *ex parte* with such a person except as permitted by law; or

(c) Engage in conduct intended to disrupt a tribunal.

(d) Conduct that constitutes a violation of paragraphs (a) through (c) of this section includes, but is not limited to:

(1) Directly or indirectly improperly influencing, attempting to improperly influence, offering or agreeing to improperly influence, or attempting to offer or agree to improperly influence an official action of any tribunal or employee of a tribunal by:

(i) Use of threats, false accusations, duress, or coercion;

(ii) An offer of any special inducement or promise of advantage, or

(iii) Improperly bestowing of any gift, favor, or thing of value.

§ 11.306 [Reserved]

§ 11.307 Practitioner as witness.

(a) A practitioner shall not act as advocate in a proceeding before the Office in which the practitioner is likely to be a necessary witness except where:

(1) The testimony relates to an uncontested issue;

(2) The testimony relates to the nature and value of legal services rendered in the case; or

(3) Disqualification of the practitioner would work substantial hardship on the client.

(b) A practitioner may act as advocate in a proceeding before the Office in which another practitioner in the practitioner's firm is likely to be called as a witness unless precluded from doing so by §§ 11.107 or 11.109. The provisions of this paragraph do not apply if the practitioner who is appearing as an advocate is employed by, and appears on behalf of, a Government agency.

§ 11.308 [Reserved]

§ 11.309 Advocate in nonadjudicative proceedings.

A practitioner representing a client before a legislative or administrative body in a nonadjudicative proceeding shall disclose that the appearance is in a representative capacity and shall conform to the provisions of §§ 11.303(a) through (c), 11.304(a) through (c), and 11.305.

§§ 11.310–11.400 [Reserved]

Transactions With Persons Other Than Clients

§ 11.401 Truthfulness in statements to others.

In the course of representing a client having immediate or prospective business before the Office, a practitioner shall not knowingly:

(a) Make a false statement of material fact or law to a third person; or