

where the practitioner's conduct occurs. A practitioner may be subject to the disciplinary authority of both the Office and another jurisdiction where the practitioner is admitted to practice for the same conduct. An applicant for patent (§ 1.41(b) of this subchapter) representing himself, herself, or representing himself or herself and other individual applicants pursuant to §§ 1.31 and 1.33(b)(4) of this subchapter; an individual who is an assignee as provided for under § 3.71(b) of this subchapter; and an individual appearing in a trademark or other non-patent matter pursuant to § 11.14 is subject to the disciplinary authority of the Office for matters arising in connection with their practice before the Office.

(b) *Choice of law.* In any exercise of the disciplinary authority of the Office, the Rules of Professional Conduct to be applied shall be as follows:

(1) For conduct in connection with practice before the Office in patent, trademark, or other non-patent law a practitioner registered or recognized to practice (either generally or for purposes of that practice), the rules to be applied shall be the rules of the Office;

(2) For conduct in connection with a proceeding in a court before which a practitioner has been admitted to practice (either generally or for purposes

of that proceeding), the rules to be applied shall be the rules of the jurisdiction in which the court sits, unless the rules of the court provide otherwise; and

(3) For any other conduct,

(i) If the practitioner is registered or recognized to practice only before the Office, the rules to be applied shall be the rules of the Office, and

(ii) If the practitioner is registered or recognized to practice before the Office, and is licensed to practice in another jurisdiction, the rules to be applied by the Office shall be the rules of the Office in regard to practice before the Office, and otherwise the rules applied shall be those of the admitting jurisdiction in which the practitioner principally practices; provided, however, that if particular conduct clearly has its predominant effect in another jurisdiction in which the practitioner is licensed to practice, the rules of that jurisdiction shall be applied to that conduct.

§ 11.806 Sexual relations with clients and third persons.

(a) *Sexual relations* means sexual intercourse or the touching of an intimate part of another person for the purpose of sexual arousal, sexual gratification, or sexual abuse.

(b) A practitioner shall not:

(1) Require or demand sexual relations with a client or third party incident to or as a condition of any professional representation;

(2) Require or demand sexual relations with an employee incident to or as a condition of employment; or

(3) Employ coercion, intimidation, or undue influence in entering into sexual relations with a client.

(c) Paragraph (b) of this section shall not apply to sexual relations between a practitioner and his or her spouse or significant other, or to ongoing consensual sexual relationships that predate the initiation of the practitioner-client relationship or practitioner-employee relationship.

(d) Where a practitioner in a firm has sexual relations with a client but does not participate in the representation of that client, the practitioners in the firm shall not be subject to discipline under this section solely because of the occurrence of such sexual relations.

§§ 11.807–11.900 [Reserved]

Dated: November 17, 2003.

James E. Rogan,

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

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