

Guiding rules of ethics and good professional conduct for patent agents and intellectual property law firms

(Entered into force 21 September 1990 in accordance with the association decision of 20 September 1990.)

SEPAF [The Association of Intellectual Property Law Firms in Sweden] is currently working to adapt this regulatory framework to refer exclusively to patent office-related questions. Until further notice, however, the rules as presented here are in effect.

According to the Statutes, the members in the Swedish Association of Swedish Patent Agents (referred to hereinafter as SPOF) and the Association of Intellectual Property Law Firms in Sweden (hereinafter referred to as SEPAF) in carrying out their activities are required to observe good professional practice as well as to work to maintain the dignity and reputation of the patent office and patent agents.

The content in these rules shall be guiding for the work of the ethics committee and for the respective associations' board in assessing whether the conduct of members is consistent with the Statutes and these rules of the Association.

Definitions

An agent refers in the following to a person or patent office authorised to handle lawsuits and cases on behalf of clients included in the patent office's operations, legal services, and other similar activities with regard to advice in technical and legal matters carried out by an SPOF and/or SEPAF member.

§ 1. Terms and conditions

1.1. The primary duty of the agent is, within the bounds of the law and good professional practice, to offer to the best of one's capability, to protect the client's interests. The agent is required to promote this without allowing one's actions be influenced by the thought of one's own benefit or discomfort, and without regard to social status, nationality, skin colour, political or religious beliefs or other irrelevant circumstances.

1.2. In his activity, the agent shall behave appropriately and correctly and in a manner to maintain the respect and trust of the agent profession and related activities. Under no circumstances may the agent deliver to the client, counterparty, government agency information or making a statement, which he knows is false or incorrect, cf. 4.4.

1.3. If the client does not respect the laws and regulations related to the activity of the agent, the agent shall make a written reminder about this to the client, insofar as the relationship is not corrected after an oral report by the agent.

§ 2. Advertising and marketing

2.1. EPI's Code of Conduct and FICPI's Code of Professional Conduct specify the current rules in relevant respects.

2.2. An agent's advertising and marketing shall be factual and accurate. It shall be in such form and content that it is not likely to discredit another agent or the activity of another agent.

2.3. Marketing should be designed to promote and maintain public confidence in the intellectual property system and the patent agent profession.

§ 3. Activity of the organisation

The person responsible for management and the management of the patent office is required to ensure that the organisation of the patent office is in good order and that accounting and management are done in compliance with what is required by law. Likewise, it is incumbent that a responsible person to ensure that the patent office has signed and maintains insurance to cover compensation claims from a client who suffered an injury by the patent office.

§ 4. Refusal and withdrawal of an assignment

4.1. An agent is not required to accept an assignment that is offered. If an agent does not want to undertake an assignment, it is required that the principal be informed immediately about this. Agents are not required to state reasons for the refusal.

4.2. If there is a special circumstance which can cause doubt as to whether there is doubt regarding the possibility of the agent to independently safeguard the interests of a client, the agent, if he is considering to undertake the assignment despite such circumstance, is required to promptly inform the client about the matter.

4.3. The agent is obliged to decline the offered assignment if the agent himself or another agent in the same office or with a common office organisation:

- 1) in the case or in another case which can be of significance for the performance of the assignment represents or himself has a personal or economic interest which is in contradiction with the principal; or
- 2) has previously been consulted by or otherwise has assisted the counterparty in the same case or in another matter of such nature that the information obtained as a result of which can be considered to be of significance for the performance of the offered assignment. An agent is also required to decline an assignment if other circumstances exist which clearly prevent the agent to freely and without hindrance uphold the interests of the principal. Notwithstanding the foregoing, an agent can represent several parties if they request or approve this in agreement with each other. The agent is then required to take into account all of the interests of the principal and is not entitled to represent any of these parties in the event of subsequent civil litigation wherein the agent has advised the parties.

4.4. If an agent, after receiving an assignment finds that such a circumstance exists that with knowledge thereof he would have been obliged to decline the assignment, the agent is obliged to withdraw from this. Withdrawal shall also take place:

- 1) if the agent has been prevented from fulfilling the assignment due to a legal excuse or similar circumstances;
- 2) if the client requires that the agent act in a criminal fashion or in breach of good professional practice; or
- 3) if the client suppresses or distorts evidence or acts deceitfully.

4.5. If an agent wants to withdraw from the assignment, he is required to state to the client the reason for withdrawal, as well as on the request of the client to leave a written notice thereof. The agent shall also give the client reasonable time to retain another agent.

§ 5. Relationship to client faithfulness, loyalty, and professional secrecy

5.1. The agent is required to observe faithfulness and loyalty vis-à-vis the client.

5.2. The agent shall observe discretion about his clients' affairs and cannot unless required by law disclose information without appropriate consent to disclose something which in its activity has been entrusted to the agent or of which he has been informed in connection with such entrustment. The agent is required to observe the same discretion and professional secrecy for his staff.

5.3. The withdrawing agent has the right to inform his successor the reasons for his withdrawal and the latter has the right to receive required information from the withdrawing agent for fulfilling his mission.

§ 6. Performance of the assignment

6.1. Assignments shall be carried out with care, accuracy and with appropriate speediness as well so that the client does not incur unnecessary expenses.

6.2. In advising clients, the agent shall observe existing law and practice.

6.3. The client should be informed appropriately about what transpires from the performance of the assignment. Enquiries about the assignment shall be answered promptly.

§ 7. Relationship to the counterparty

7.1. The agent cannot seek to promote a client's cause through improper conduct against counterparty.

7.2. The agent should not take legal measures against counterparty without first having written to him and prepared a reasonable time for him to respond to the client's claim and to find an amicable settlement. If the circumstances are such that a delay in taking legal action can cause the client a legal loss or other damages, or there otherwise exist special reasons to take urgent legal action, the agent nevertheless has the right without prior notice to the counterparty to freely take measures in the client's interest required in every special case that are required.

§ 8. Relationship to employees

The agent shall be aware of his responsibility in the selection and training of employees as well as in delegating work tasks to them.

§ 9. Relationship to colleagues

9.1. What is prescribed in these rules regarding the relationship to another member in SPOF or SEPAF shall also apply in relation to other patent agents.

9.2. If an agent receives an offer to take over an assignment from another agent and there is lack of clarity about the reason for the shift in agents, before deciding to take the assignment the agent should get in contact with the previous agent to clarify the matter. The previous agent shall always be informed about the takeover of the representation.

9.3. In case disagreements arise between agent colleagues they should first try to settle the matter by mutual agreement. Otherwise, what is provided in the by-laws shall apply.

§ 10. Relationship to SPOF and SEPAF

The agent is required within the prescribed time limits to submit an opinion or statement of defence which is required by the SPOF or SEPAF board or its ethic committee or any representatives of these bodies.

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