Brave New World:
Technology Advances Create Ethical Risks for IP Attorneys

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"*Once a new technology rolls over you, if you're not part of the steamroller, you're part of the road*."

- Stewart Brand, author

Overview

- Virtual law office and mobile lawyering.
- Outsourcing of legal services.
- Software & AI engaging in practice of law.

Virtual Law Office and Mobile Lawyering



The Virtual Law Office (VLO)

- "A law office that exists without a traditional physical counterpart, in which attorneys primarily or exclusively access client and other information online, and where most client communications are conducted electronically, e.g., by email, etc."
  - *Ethical Obligations on Maintaining a Virtual Office for the Practice of Law in Pennsylvania*, Pa. Bar Assoc. Formal Op. 2010-200.

VLO-Mobile Lawyer Ethics

- Key issue is whether you are engaging in Unauthorized Practice of Law.
- UPL prohibited by ethics rules in every state and the USPTO.
  - ABA M.R. 5.5; 37 C.F.R. 11.505
- UPL also a crime in many states.
  - "Any person who practice law without being authorized or licensed shall be guilty of a Class 1 misdemeanor." Va. Code 54.1-3904

UPL – Geographic Scenarios

- Lawyer physically situated "virtually" in State A (no license), provides service in State B (licensed).
- Lawyer in VLO State A (licensed), provides service in State B (unlicensed).
- Lawyer not licensed in either State A or State B.

UPL – General Rule

(a) "A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so."

ABA M.R. 5.5(a); 37 C.F.R. 11.505(a)



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