

No Candy For You:
Tricky Ethics Issues for IP Lawyers

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Overview

- Who Is My Client?
- Conflicts in Subject Matter
- Why You Shouldn't Represent Your In-Laws

Who Is My Client?



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Knowing IP Client Matters

- Ethical duties based on client relationship.
 - Competence
 - Diligence
 - Confidentiality
 - Communications
 - Loyalty
 - Reasonable fees
- Legal duties.
- Disqualification.

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Forming Client Relationship

- A relationship of client and lawyer arises when:
 - A person manifests to a lawyer the person's intent that the lawyer provide legal services for the person; and
 - either
 - lawyer manifests consent; or
 - lawyer fails to manifest lack of consent and lawyer knows or reasonably should know the person reasonably relies on lawyer to provide the services.

Restatement (Third) of the Law Governing Lawyers § 14

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The Entity As Desired Client

- “A lawyer employed or retained by an organization represents the organization acting through its duly authorized constituents.”

ABA M.R 1.13(a); 37 C.F.R. 11.113(a)
- But that general rule does not automatically insulate lawyer from claim that someone else also was the lawyer's “client”
 - e.g. Family of companies.

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