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# Practical IP Ethics Problems

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## Overview

- Competency:
  - A simple way to explain Section 101 to clients!
  - How to explain to a client why the application must disclose the best mode when it doesn't matter if it doesn't!
  - How to conduct effective examiner interviews.
- Conflicts of Interest
  - How much business do you lose while someone's a client?
  - How much do you lose after the representation is over?
- Why you, not the target of a C&D letter, be Groucho Marx.

## What I Learned While Preparing This First Part.

- My Cousin Vinny and Legally Blonde never get old.
- Criminal law is way more interesting than IP law.
- There's a YouTube series by a patent lawyer/stand-up comedian... with a sometimes a juvenile sense of humor... so I loved it and watched the entire "The IP Section" by Wes Austin.
- The amount of time a particular person has to make videos is inversely proportional to their talent for doing so.

## Communication and Competency

- A lawyer must explain the law to clients so they can make informed decisions about the matter, including discussing the material risks and alternatives to the course of action. *See* Model Rule 1.4; USPTO 11.104.
- A lawyer must act competently. Model Rule 1.1; USPTO 11.101.
- Particularly challenging tasks:
  - explaining Section 101;
  - explaining that best mode matters for patentability, but not validity; and
  - examiner interviews.
- What can we learn from these clips (one of which I made)?

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## Competently Explaining 101 Issues to Inventors



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## Competently Explaining Best Mode



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15<sup>th</sup> Annual Advanced Patent Law Institute session  
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