

Confidentiality of Communication between Clients and their Patent Advisors

Egypt

1. The origin of the privilege and/or secrecy obligation:

1. Client-Attorney:

- Art. 65 of the Advocacy Law No.17 of 1983: “The lawyer shall refrain from testifying about facts or information that he has learned through his profession if requested to do so by the person who informed him of them, unless he mentioned them to him with the intent to commit a felony or misdemeanor.”
- Article no. 79 of Advocacy Law No.17 of 1983: “The lawyer must keep the information that his client discloses to him, unless he asked him to disclose it to defend his interest in a lawsuit.”
- Article no. 66 of Evidence in Civil and Commercial Matters Law No. 25 of 1968 (with its modifications): “Any lawyer, agent, doctor or other person who learns of an incident or information through his profession or trade may not disclose it, even after the end of his service or the cessation of his capacity, unless mentioning it to him is intended to commit a felony or misdemeanor.”

2. Applicant-Agent (Patent Advisor):

- Article no. 1 of Practicing the Profession of Patent Agents’ Law No. 23 of 1951: “No one may practice the profession of a patent agent unless his name is registered in the register of patent agents at the Ministry of Commerce and Industry. The register is divided into different tables according to the type of academic qualification.

In the context of this law, a patent agent means anyone who represents others before the official authorities at the Ministry of Commerce and Industry...”

- Article no. 9 of Practicing the Profession of Patent Agents’ Law No.23 of 1951: “Owners of trademarks, patents, designs, models and industries may not appoint patent agents before the official authorities at the Ministry of Commerce and Industry except from among the persons whose names are registered in the register.”

2. Professionals bound by the privilege and/or secrecy:

- Attorneys
- Patent agents (Egyptians)

3. The scope of the privilege/secrecy obligation:

Article no. 80 of Advocacy Law No.17 of 1983: “The lawyer must refrain from providing any assistance, even in the form of advice, to his client's opponent in the same dispute or in a dispute related to it, if he has expressed an opinion to the opponent or previously represented him in it, and later on withdrew his representation. In general, the lawyer may not represent conflicting interests.

This prohibition applies to the lawyer, his partners, and all lawyers working for him in the same office in any capacity.”

4. Penalties for breach of secrecy:

1. Attorneys:

- Article no. 98 of Advocacy Law No.17 of 1983 stated that: “Any lawyer who violates the provisions of this law or the internal regulations of the Syndicate, or fails to fulfill his professional duties, or commits an act that underestimate the honor of the profession, or behaves in a disgraceful manner that degrades the status of the profession, shall be punished with one of the following disciplinary penalties:

- 1- Warning
- 2- Reprimand
- 3- Prohibition from practicing the profession
- 4- Permanent deletion of the name from the list

The penalty of prohibition from practicing the profession shall not exceed three years, and permanent deletion of the name from the list shall not affect the pension due.”

Further information about each disciplinary procedure had been disclosed in articles 99, 100.

2. Patent agents (Egyptians):

- Article no. 13 of Practicing the Profession of Patent Agents’ Law No.23 of 1951: “Disciplinary penalties are:

- 1- Warning
- 2- Reprimand
- 3- Suspension from practicing the profession for a period not exceeding two years
- 4- Deletion of the name from the register.”

5. Exceptions and limitations to the privilege /secrecy obligation:

Article no.66 of Evidence in Civil and Commercial Matters Law No. 25 of 1968 (with its modifications): “However, the aforementioned persons must testify to that incident or information whenever requested to do so by the person who confided it to them, provided that this does not prejudice the provisions of the laws pertaining to them.”

6. Qualifications of patent advisors:

- o Article no. 2 of Practicing the Profession of Patent Agents’ Law No.23 of 1951:

1. Egyptian and residing in the Arab Republic of Egypt
2. Full civil capacity
3. Good reputation and no judicial rulings or disciplinary decisions affecting honor have been issued against him
4. Hold a degree or diploma from an Egyptian university or an Egyptian or foreign certificate that the Ministries of Education and Trade and Industry agree to consider equivalent to one of the previous qualifications.