



**Asociación Interamericana de la Propiedad Intelectual  
Inter-American Association of Intellectual Property  
Associação Interamericana da Propriedade Intelectual**

## **CODE OF PROFESSIONAL ETHICS OF THE INTER-AMERICAN ASSOCIATION OF INTELLECTUAL PROPERTY (ASIPI)**

### **TITLE I**

#### **BASIC PRINCIPLES AND GENERAL PROVISIONS.**

Article 1.- This Code develops the ethical principles and general rules of professional conduct set forth in Article 2 paragraph i) of the Bylaws of the Inter-American Association of Intellectual Property (ASIPI).

Article 2.- The provisions contained in this Code are mandatory for all ASIPI Associates.

Article 3.- The Associates must observe the highest ethical standards. Integrity, honesty and trustworthiness are their most important attribute and must always characterize their actions.

Article 4.- At all times Associates must ensure that their professional conduct, when attending issues, study, diffusion, development and improvement of Intellectual Property, meets the highest professional standards and the dignity, trust and respect that their ASIPI Associate status represents.

Article 5.- The inherent honor of an ASIPI Associate is indivisible. The Associate who engages in any unworthy action, impairs ASIPI's moral heritage and of all of its Associates.

### **TITLE II**

#### **PROFESSIONAL DUTIES, RULES OF CONDUCT AND PROFESSIONAL PERFORMANCE.**

### **CHAPTER I**

#### **ETHICAL PRINCIPLES AND PROFESSIONAL DUTIES**

Article 6.- The quality of being an Associate of ASIPI entails attachment to the following ethical principles:

- Integrity

- Righteousness
- Honesty
- Dignity
- Loyalty
- Diligence
- Independence
- Truth
- Good Faith

The Associate will make the exercise of virtue a constant practice, guiding his/her steps at all times with integrity and probity in acting; righteousness of mind; justice, severity, decorum and blamelessness in his conduct; honor and manhood of good; sense of duty; fellowship and courtesy; character integrity; professing always the truth and acting in good faith, all of this in order to preserve and maintain the respect and confidence of members of the profession, the clients, the Association, the institutions and society in general.

Article 7.- The following are duties of an Associate:

- a. Act according to the ethical values and principles contained in this Code, while maintaining respect for his/her dignity as a person and professional being. The trustworthy relationships directly depend on the nonexistence of any blemish on the truthfulness, honesty, probity, independence or to the integrity of the Associate, for whom these traditional virtues constitute professional obligations.
- b. Serve the interests of clients with independence, competence, diligence and prudence, in accordance with professional ethics and dignity and preserving the necessary trust in the profession.
- c. Serve the community through the application of his/her scientific, technical and cultural capacity and of his/her professional knowledge, and to maintain updated and develop his/her knowledge and professional competence.
- d. Actively contribute with the strengthening of the fellowship and links that unite colleagues, through loyalty, mutual respect, civil and rational tolerance, working for the support and progress of the Association.

## CHAPTER II DUTIES TO CLIENTS

Article 8. General Provisions

- a. The relationship between the Associate and his/her client is based on trust and requires from the Associate a professional conduct based on ethical principles recognized by this Code.

- b. The Associate must serve his/her clients, to those who must jealously guard their independence, with efficiency, diligence, reflection and determination, devoting the most attention and professional care to the work entrusted to him/her, developing them with due professional competence, without delay, neglect or default in the performance of his/her duties.
- c. The Associate must act with truthfulness, and good faith, not to carry out or advise fraudulent acts or conventions, not to use resources or means that import violation to the professional ethics, and not to instigate or encourage unjustified conflicts or disputes.
- d. When performing his/her client's orders, the Associate must try to avoid unnecessary costs. When in the best interests of his/her client, seek conciliations, compromises or fair transactions.
- e. In his/her professional exercise, the Associate must provide the client with a sincere and honest opinion on the various aspects of the matter under consideration - both favorable and unfavorable - after a serious study of the matters of fact, an adequate assessment of the technical or legal matters and based on his/her competence and experience. He/she shall never ensure the success in the matter but must simply limit himself/herself to provide his/her opinion on the case with loyalty and honesty.
- f. The Associate must promptly execute the client's instructions, answer to their questions and fully communicate all stages of their matter or business, informing his/her client of any mistakes or omissions incurred with respect to the same.
- g. The Associate must timely inform his/her client about his/her fees, which shall be reasonable. In particular, the Associate must inform to his/her client about the base and way in which he/she will calculate his/her fees for professional services, and the way and opportunity in which said fees and expenses, if any, shall be paid by the client.
- h. An Associate may request the client a provision of funds on account of costs and fees. These funds must be handled in accordance with appropriate accounting practices and the Law. The Associate shall not use the funds paid by a client for purposes other than those for which they were paid. In the case that no payment is made for the requested provision, the Associate may refuse to handle a matter, or withdraw from it, without prejudice to take reasonable measures provided for in Article 8.j.
- i. The Associate is free to accept or reject a matter in which his/her intervention is requested, without the need to justify his/her decision. Moreover, the Associate may withhold or discontinue his/her intervention when discrepancies arise with the client. He/she must do so whenever circumstances arise that may affect his/her full freedom and independence or the obligation of professional secrecy.

- j. The Associate who is not willing to accept an assignment of professional services or that ceases in the rendering of the same must immediately inform it to his/her client and shall take the measures that are reasonably appropriate to prevent damages and defenselessness to his/her client.

#### Article 9. Confidentiality and Professional Secrecy.

- a. Part of the essence of the professional role fulfilled by the Associates is to be depositaries of the secrets of their clients and recipients of information based on trust. Without the guarantee of confidentiality and secrecy said relation of trust may not exist.
- b. The act of stringently keeping the professional secrecy is a fundamental right and duty of the Associate.
- c. The Associate must keep under strict confidence all of the information concerning the matters and business of their clients that he/she comes to know by virtue of their professional relationship. He/she must not disclose such information unless said disclosure is expressly authorized by the client, whenever imposed by law, required by a lawful court order issued by a court of competent jurisdiction or as required or permitted by this code. Even then, the Associate must make his/her best efforts in order not to disclose more information than is strictly necessary.
- d. The right to professional secrecy and the obligation to maintain confidentiality includes the confidences and proposals of his/her client, his/her opponents, those received from colleagues and third parties, as well as all of the facts and documents that have been reported or received in connection with matters or business of the Associate's clients, in any of the types of his/her professional work.
- e. In any case, the Associate shall cause the observance of professional secrecy in relation to any other person that works with him/her in his/her professional activity. In particular, the Associate must take all reasonable steps to prevent his/her partners, associates, employees and third parties whose services are used from revealing information that the Associate has received in confidence.
- f. The Associates' obligation of professional secrecy will last even after the conclusion of the matter or the termination of the professional relation with his/her client, except in relation to those facts that are of public knowledge and the disclosure of which has not been originated by the Associate.
- g. The obligation of the secrecy relinquishes when it is strictly necessary and justified for the Associate to exercise his/her personal defense opposing charges filed against him/her and in the cases required by the competent authorities

#### Article 10. Conflicts of interest.

- a. The diversity of obligations to which the Associate is subjected, impose absolute independence, free from any pressure, whether arising in his/her own interests or from external influences.
- b. The Associate is obliged not to disappoint his/her client's trust and not to defend interests in conflict with those of the latter.
- c. The Associate must not - by himself/herself or through another person - advice, represent or act on behalf of two or more clients in the same matter if there is conflict between their interests, unless he/she has been expressly authorized by both clients to do so.
- d. In the case of joint representation of multiple clients in the same case, the Associate must inform all of them about the implications of common representation and the advantages and risks involved.
- e. The Associate must refrain from acting on behalf of a new client when the knowledge that he/she possess from a former client linked with such act may grant undue advantage to the new client in relation to the client, unless that he/she has been expressly authorized by the former client to do so.
- f. When an Associate is part of a professional firm, nor the Associate or any other partner, associate or employee may knowingly represent a client, if any of the other members of the firm would be individually banned from representing them.
- g. When an Associate ends his/her association with a professional firm, he/she may not use in any way the confidential information which he/she has gotten to know during his/her previous work.
- h. When an Associate goes from a professional firm to another, the Associate and his/her new firm shall take all the steps and reasonable measures to maintain the confidentiality of the information related to the matters and lawsuits of the clients from the former firm.

### CHAPTER III DUTIES FOR WITH THE COLLEAGUES AND THE ASSOCIATION

#### Article 11.- General provisions.

- a. The Associates must maintain reciprocal loyalty, mutual respect and fraternal relationships, actively contributing to the strengthening of the bonds that bind them.
- b. Trust, loyalty and chivalry should be his/her customary attitude.
- c. The Associate shall conduct in accordance with the highest ethical standards, in a professional way, refraining from those conducts which entail discredit to the profession, their colleagues and the Association.

- d. The Associate must prevent the use of his/her services or his/her name to allow undue exercise of the profession.
- e. The judgments that an Associate may make concerning a colleague or the Association shall be fair, courteous and well-founded. The Associate shall refrain from making unfounded, rude or offensive judgments with respect to other colleagues or the Association, carefully using in his/her oral and written expressions the appropriate restraint and energy, avoiding in his/her criticism any offensive expressions.
- f. The Associate shall not compete in the professional exercise through unfair resources or ones which discredit the Association.
- g. Any Associate that by work and/or contractually establishes a link with any person and/or private law entities to which an application for the admission to ASIPI has been rejected, or has been expelled by determination of the ASIPI Tribunal, automatically will lose his/her status of an ASIPI Associate, and his/her resignation shall be understood as filed.
- h. In his/her professional practice, the Associate is required to dully comply with his/her financial obligations.
- i. The Associate who hires a colleague - in his own country and/or abroad - for a matter, is responsible for the payment of his/her fees, except when there has been an express agreement to the contrary.
- j. The Associate is responsible for the prompt settlement of his/her financial obligations towards his/her colleagues - in his/her own country and/or abroad - whose service he/she has required for himself/herself or on behalf of his/her clients, not being it admissible to delay payments to said colleagues claiming delay in payments by his/her clients, except when there has been an express agreement to the contrary.

#### Article 12.- Of Advertisement.

It is the duty of the Associates not to seek for clientele nor to promote or advertise through means which are incompatible with the professional dignity, either personally or through third parties.

The Associate is allowed to advertise his/her professional services whenever it is dignified, decent, loyal and true, adjusting in any case to the ethical standards indicated in this Code recognizing the existing legislation in relation to this matter and to the defense of the competition.

In particular, it is understood that any advertising that involves the following violates this Code:

- a. Providing inaccurate, false or misleading data.

- b. Revealing directly or indirectly facts, data or situations covered by professional secrecy.
- c. Promising to obtain results that do not rely solely on the activity of the Associate, or to guarantee success in the entrusted matters.
- d. Establishing comparisons with other lawyers or with their specific work or unfounded affirmations of self-praise.
- e. Using emblems or symbols of the Association and others that due to their similarity would cause confusion, as their use is reserved solely for said purpose by the Association.

#### Article 13.- Unfair Competition.

The Associate may not proceed with the undue soliciting of clients. He/she shall comply with the existing legislation in his/her jurisdiction that rules fair competition.

The following, in particular, are considered acts of unfair competition:

- a. The use of direct and indirect advertising proceedings contrary to the specific rules on advertisement contained in this Code.
- b. Any practices of direct or indirect solicitation of clients that undermines people's dignity or is likely to bring discredit to the profession or the Association due to the violation of the rules and principles established in this Code.

#### Article 14.- Relationship with the Association.

The Associate is required to:

- a. Comply with the provisions of the Bylaws of the Association, its Regulations, this Code of Professional Ethics, as well as the rest of the rules of the Association and the agreements and decisions of the governing bodies of the Association in the relevant field.
- b. In relation to the bodies of the Association and the members that compose them, attending with the utmost diligence the communications and writs issued by such bodies or by their members, in the exercise of their functions.

## RELATION TO INSTITUTIONS AND COURTS

Article 15.- Relationships with the institutions and courts.

The following are obligations of the Associates towards the institutions and the jurisdictional bodies:

- a. Act in good faith, probity, loyalty and truthfulness, in their declarations or statements, and with due respect in all of his/her interventions.
- b. Show respect for all who may intervene in the institutions and the jurisdictional bodies, requiring at the same time the identical and reciprocal behavior from these in relation to the Associates.
- c. Urge his/her sponsored parties or clients to the observance of respectful behavior towards the people working in the public institutions and jurisdictional bodies.
- d. To comply and promote compliance of the principle of legality, contributing to the diligent processing of proceedings in accordance with the law.

## PART III ASSESSMENT OF PENALTIES

Article 16.- The assessment of any violation of the Code of Professional Ethics of the Association will correspond to the ASIPI Tribunal in accordance with the provisions of Chapter V of the Bylaws of Association and Regulation of Proceeding Rules of the Court.

Article 17.- The penalties for the violation of the Code of Professional Ethics of the Association are the ones set forth in Chapter V of the Bylaws of the Association, being it necessary to apply the principles of gradation and proportionality to the committed offense.