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ethicsrules comments

Revised Proposed Rule Section 11.14(a) appears to conflict with with 5 U.S.C. 500(b).

Proposed Rule Section 11.14(a) states, "Attorneys. Any individual who is an attorney may represent others before the Office in trademark and other non-patent matters. An attorney is not required to apply for registration or recognition to practice before the Office in trademark and other non-patent matters. Registration as a patent attorney does not entitle an individual to practice before the Office in trademark matters."

However, 5 U.S.C. 500(b) states: "An individual who is a member in good standing of the bar of the highest court of a State may represent a person before an agency on filing with the agency a written declaration that he is currently qualified as provided by this subsection and is authorized to represent the particular person in whose behalf he acts." The exemption in 5 U.S.C. 500(e) only applies to patent matters, "(e) Subsections (b)-(d) of this section do not apply to practice before the United States Patent and Trademark Office with respect to patent matters that continue to be covered by chapter 3 (sections 31-33) of title 35."

A reasonable interpretation of 5 U.S.C 500(b) requires an Attorney to file of a written declaration related to qualification and authorization with the Office before the Attorney may represent others before the Office in trademark and other non-patent matters. Rule 11.14(a) states that an attorney does not need to apply for recognition to practice before the Office in trademark and other non-patent matters. Thus, proposed rule section 11.14(a) appears inconsistent with law, and accordingly, is not expressly authorized by 35 U.S.C. 2(b)(2)(D).