

REVISED POLICY STATEMENT ON CONFLICT OF INTEREST

This policy statement has been approved by the Members of Haseltine Lake LLP for publication to clients of the firm by way of explanation of the firm's approach to potential conflict of interest issues. It will be reviewed and updated annually by the Management Committee.

1. REGULATION AND RULES OF CONDUCT

Haseltine Lake and its Patent and Trademark Attorneys are Regulated by the Intellectual Property Regulation Board and are subject to The Code of Professional Conduct of the Intellectual Property Regulator. An extract of the relevant provisions of the Code of Conduct relating to Conflict of Interest is at Schedule 1.

The key provision is as follows:

Provided in all the circumstances it is reasonable to do so, a regulated person may act for two or more clients, or for a client as against a former client, in relation to the same or a related matter in a situation of conflict or possible conflict but only if all of the parties have given their informed consent in writing. Regardless of consent a regulated person must, however, refuse to act on behalf of conflicting or potentially conflicting parties in contentious matters, in circumstances where the regulated person's actions would not be seen to be neutral or where accepting instructions from both parties would risk a breach of Rule 5 [integrity] or if Rule 8 [confidentiality] cannot be observed.

The Code does not define all of the circumstances which may give rise to a conflict but the Guidance notes indicate that :

A conflict may not arise simply because the regulated person acts for two or more parties in the same general field of business or technology although on the facts it may do so.

Different firms interpret this provision in different ways. The purpose of this Policy Statement is to explain to clients of Haseltine Lake how this provision will be interpreted and applied within Haseltine Lake and more generally how Haseltine Lake will seek to avoid and where necessary manage potential conflict situations.

2. DIFFERING CLIENT PERSPECTIVES

Many clients are entirely comfortable for Haseltine Lake LLP to represent others in their sector, including their competitors. Some have indicated that they see our sector knowledge, gained from a wide client base within a particular technology sector, as a key reason for choosing us as their IP service provider. For these clients, conflict of interest is a narrow issue relating only to disputes and contested matters. However, other clients may construe the concept of conflict of interest more widely and may feel that a conflict of interest would always exist if their usual Haseltine Lake attorney or even another attorney in a different part of the firm were to represent any other company within their competitive sector. Other (perhaps most) clients adopt a position somewhere in the middle of the spectrum, feeling comfortable with Haseltine Lake being active in their broad technology sector but not with them acting for certain named competitors or in certain narrowly defined areas of their key product or brand development.

3. OUR GENERAL APPROACH

Haseltine Lake LLP aims to steer a middle course between a narrow and a broad construction of conflict of interest. We want to operate well within the professional conduct rules and to meet the expectations of our clients, but without unreasonably curtailing our firm's opportunities for business growth.

In our view, acting for diverse clients, even those who may be competitors in closely allied fields, enhances the capability of individual patent attorneys and of the firm overall and thus improves the expertise that we can offer to all our clients. Our clients are protected by our strict professional rules relating to confidentiality. These would preclude any disclosure of the affairs of one client to another.

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In certain industry sectors and geographic regions there are so many competitors and so few patent attorneys that if a firm of patent attorneys was not free to act for more than one business in the sector, some users of patent attorney services would be badly served by the profession in that they could be forced to use less experienced firms if the more experienced practitioners were already "spoken for".

In determining our policy, we have had particular regard to the needs, perceptions and preferences of our most long-standing clients, but we recognise that ultimately the responsibility for evaluating the risk of conflict rests with Haseltine Lake. In making that evaluation we will apply the following principles:

4. OUR DETAILED POLICY ON CONFLICT OF INTEREST

- Haseltine Lake LLP will not act for both parties to a formal IP dispute. If such a dispute arises between parties that have previously been represented by Haseltine Lake LLP, Haseltine Lake will decline to act for both parties (but may continue to act for one party if the other party consents to them doing so).
- Haseltine Lake LLP will not act for a party in circumstances where they believe there is a significant likelihood of a formal IP dispute arising at some time in the future between that party and an existing Haseltine Lake client. This means for example that we would not ordinarily act for a new client who we know is currently or has recently been involved in challenging the rights of one of our existing clients or whose rights are, to our knowledge, being challenged by an existing client.
- Haseltine Lake LLP will not act for a party in circumstances where the firm has expressly agreed with another client not to do so. In such circumstances, the limits of the exclusion will be closely defined (with reference for example to individual Haseltine Lake LLP attorneys or offices, to particular named entities within a corporate group, and to specific technological fields) and narrowly construed.
- Where Haseltine Lake LLP is not precluded from acting for a party based on the criteria above, but perceives that an existing client may have some general concerns about the firm's involvement with that party, Haseltine Lake LLP may offer to use its network of attorneys and offices and a system of "Chinese walls" to try to address the concerns that the existing client may have.
- Haseltine Lake LLP will decline to act in such other circumstances as the Members may reasonably consider necessary or appropriate in line with the spirit of this policy statement.
- In all other circumstances, Haseltine Lake LLP shall be free to act.

5. CONFLICT OF INTEREST SEARCHING

When we receive instructions for the first time from a new client we will conduct a search to try to identify any potential conflict of interest with any of our existing clients. We do this by circulating general information about the new client and their technology sector to all of our attorneys who operate in that sector. We do not circulate any details of their specific invention or brand. If any potential conflict is identified we will consider it in the light of the Rules of Conduct and of our Conflict Policy set out above and will notify the new client if we identify any clear constraints on our freedom to act. We would expect a new client to notify us of any specific concerns they may have about particular areas of their activity or particular competitors.

Sometimes a potential conflict can arise between two existing clients. This is most likely to arise where there is an acquisition or where a company branches out into new areas of activity. In those circumstances we would encourage clients to keep us informed of any new conflict concerns that they may have as they move into new areas or as they acquire new businesses. It is not always possible for us to search for or identify such conflicts in advance but if they become apparent we will then evaluate them in accordance with our Policy as set out at Section 4 above.

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6. SPECIALIST ROLE OF OUR OPPOSITIONS AND APPEALS UNIT

Haseltine Lake LLP has a specialist unit, based in our office in Munich, dealing with EPO hearings, oppositions and appeals and with EPO practice and procedure questions. Often members of this unit are brought in when the usual representatives of a party are not able to achieve the required information or outcome.

Our unit takes on specific matters on a one-off, case-by-case basis at the request of whichever party to the EPO proceeding approaches them first. Our aim is to provide open access to expert representation (somewhat akin to the system adopted by UK barristers). There is no implication that Haseltine Lake is retained by the party in question on an ongoing basis. In some cases, members of our Oppositions and Appeals Unit may become representatives of record. In other cases they may act only as background advisors. Occasionally we act through a "straw man" vehicle (as permitted under EPO rules) where the identity of the client may not be apparent.

The team will not take on cases which involve direct conflict with established Haseltine Lake clients but may sometimes act for parties who are known competitors of one of our clients against third parties where our client has no apparent interest in those proceedings. This would not apply in cases where we have expressly agreed with our client that we will not act for a particular competitor (as to which see section 4 above).

Lesley Evans
Chief Executive

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Schedule 1: Extracted Provisions from the Code of Conduct of the Intellectual Property Regulation Board (September 2009 version as amended September 2011 and December 2012).

Rule 7 - Conflicts

A regulated person must not act where his interests conflict with those of a client or of a former client, or where he knows or has reasonable grounds for suspecting that the interests of any partner or regulated person or staff of his firm, conflict with those of a client or of a former client.

Provided in all the circumstances it is reasonable to do so, a regulated person may act for two or more clients, or for a client as against a former client, in relation to the same or a related matter in a situation of conflict, or possible conflict but only if all of the parties have given their informed consent in writing. Regardless of consent a regulated person must, however, refuse to act on behalf of conflicting or potentially conflicting parties in contentious matters, in circumstances where the regulated person's actions would not be seen to be neutral or where accepting instructions from both parties would risk a breach of Rule 5 [integrity] or if Rule 8 [confidentiality] cannot be observed.

Guidance

7.1 If a regulated person acquires or has acquired relevant knowledge concerning a current or a former client in the course of acting for that client in any capacity, the regulated person should not accept instructions to act against that client or should henceforth cease to act against that client. The term "relevant knowledge" should mean knowledge of the client or the client's affairs that is not widely disseminated to the public and that is, or is likely to become, relevant to the action concerned against the client.

7.2 A regulated person must not allow any person to perform work under his supervision when the regulated person knows or has reasonable grounds for suspecting that such a person has a conflict of interest in respect of the work.

7.3 A conflict may not arise simply because the regulated person acts for two or more parties in the same general field of business or technology although on the facts it may do so. More typically a conflict arises by reference to the specific subject matter of a case. However, acting for two or more parties in the same general field of business or technology may give rise to issues of confidentiality under Rule 8.

7.4 Confidentiality safeguards within firms or between branches may be sufficient to "cure" conflict, provided informed written consent is obtained from all parties and suitable arrangements to ensure the confidentiality of information applying to each client are in place. Safeguards - within firms or between branches - cannot, however, "cure" conflicts to enable the same regulated person to act on behalf of opposing parties in a contentious matter.

7.5 All regulated persons should undertake a "conflict check" before taking on a new client. This may take whatever form is considered appropriate in all of the circumstances. The minimum expected is a check with all other relevant persons that acceptance of a named client is not likely to compromise the interests of a client already on the books.

7.6 Unless otherwise agreed, informed consent requires that the parties whose interests do or may conflict are notified in writing of the name(s) of the other party(ies).

7.7 Where there is conflict between the interests of a regulated person, and those of a client, neither informed consent, nor any other arrangement, will enable him to act for that client.

7.8 Nothing in these rules prevents a regulated person from acting as a mediator between parties to a dispute provided the appropriate codes of practice which deal with conflict when acting as a mediator are observed.

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Rule 8 - Confidentiality and disclosure

Regulated persons must keep the affairs of clients and former clients confidential except where disclosure is required and permitted by law or by the client or former client.

Subject to this duty of client confidentiality and any circumstance where disclosure of information is prohibited by law, unless a client expressly agrees that no duty to disclose arises or a different standard of disclosure applies, a regulated person should disclose all relevant information of which he is aware to a client.

Regulated persons must not put any clients' confidential information at risk by acting, or continuing to act for another client where that information may be material, unless both clients provide informed consent and in all of the circumstances it is reasonable to do so

Guidance

8.1 Confidentiality of clients' information is paramount and central to, though distinct from, the issue of conflict of interests.