

## Hernandez, Jesus

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**From:** Mark MPT Terry <mark@terryfirm.com>  
**Sent:** Thursday, February 19, 2015 10:58 AM  
**To:** ACPrivilege  
**Subject:** Written Comment: Privileged Communications Between Patent Practitioners and Their Clients

From: Mark Terry, P.A.  
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To whom it may concern:

In response to the Jan. 26, 2015 Federal Register notice announcing a roundtable event and soliciting public feedback regarding privileged communications between patent practitioners and their clients, please see my comments below.

This comment is directed to the following question: *How would U.S. stakeholders be impacted by a national standard for U.S. courts to recognize privilege for communications with U.S. patent agents and foreign patent practitioners?*

As a matter of professional responsibility, U.S. patent agents (see rule of professional conduct 11.106) and most foreign patent practitioners are required to preserve the confidences and secrets of their clients. This professional obligation and the legal privilege for agent-client communications exist to encourage candid and complete communication between a client and his patent agent. U.S. patent agents and foreign patent practitioners can perform truly beneficial services for a client only if they are aware of all information that might be relevant to the representation. Consequently, an agent-client relationship must be based on mutual confidence and unrestrained communication that will facilitate a proper representation relationship.

As a patent attorney located in Miami, Florida, a hub for Latin American companies, this issue is topical for my practice, since I often deal with clients in Latin American countries. Thus, I often worry about whether my communications with foreign clients will be protected in the courts of their countries.

In light of the above, our opinion is that communications between a client and his U.S. patent agent and foreign patent practitioner should be privileged in U.S. courts.

Sincerely,

**Mark Terry**

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