

# Training Module for Chapter 20 of the MPEP

(Revised August 16, 2018)

## Summary

### Chapter 20: Duty of Disclosure

#### Section 2001 – Duty of Disclosure, Candor, and Good Faith

- The USPTO imposes a duty of candor and good faith on every individual associated with the filing and prosecution of a patent application. This duty extends to the patent applicant and his representatives, such as attorneys and patent agents that assist in the prosecution or preparation of a patent.
- A breach of this duty is considered inequitable conduct. Specifically, this includes:
  - (1) misrepresentation of material facts
  - (2) failure to disclose material information
  - (3) submission of false information

coupled with intent to deceive or mislead the USPTO.

- A finding of inequitable conduct is made by a court and it renders the claims of a patent **unenforceable**.
- An applicant, or another party with a duty to disclose, generally complies with his duty by submitting information to the USPTO using an information disclosure statement (IDS).

NOTE: Third parties may **not** file an IDS. They are limited to protests or submissions, discussed above.

- A IDS is a concise written statement listing information, such as publications, technical journals, and other activities that may affect the patentability of a pending application.

NOTE: Since provisional applications are not examined, IDS should NOT be submitted.

- A fee is not normally required with the submission of an IDS. However, a fee is required if it is filed after a notice of allowance or final rejection.
- If an IDS is received after payment of an issue fee, it will merely be placed in the application file with no further action.

### **Selected Questions and Answers for Chapter 20 - NONE**

### **In-Depth Review of Chapter 20**

Chapter 20 from the MPEP, in its entirety, is on the selection bar at the top of this page. You are encouraged to familiarize yourself with the general format and structure of the MPEP. However, it is recommended that you quickly scan through most of the chapter - while reading only those sections that are highlighted in yellow.

### [Chapter 20, MPEP](#)