

Attorney-Client Privilege **When Using a Patent Agent**

Hiring patent agents—persons who do not hold a license to practice law but are licensed to practice in front of the United States Patent and Trademark Office (USPTO)—can be an attractive alternative to more costly patent attorneys. Typically, patent agents can have all of the experience and skills necessary to prosecute patents at the USPTO, but often work at discounted rates in comparison to their attorney brethren. increase. attorney-client privilege may not attach to patent agent work, even when that work is solely related to USPTO.

CUTTING EDGE TECHNOLOGY

As stated in *In re DataTrop Corp.*, courts have long held that the purpose of the attorney-client privilege is to “promote full and frank communication between a client and his attorney so that the client can make well-informed legal decisions and conform his activities to the law.”

INNOVATIVE NETWORK INTEGRATION

To that end, the attorney-client privilege is often relied upon by litigants to protect their communications used in forming litigation, licensing, and even patent prosecution strategies.

