

Agreement Regarding the Implementation of The Patent Employee Recognition for eXcellence (PERX) Program

This Agreement is between the United States Patent and Trademark Office (USPTO) and the Patent Office Professional Association (POPA) (hereinafter “Parties”). The USPTO has determined to initiate a new program whereby Supervisory Patent Examiners (SPEs) provide recognition to and promote engagement with Patent Examiners for organizational excellence. A goal of the PERX Program is to improve the supervisor-employee engagement through recognition of activities Examiners voluntarily strive for outside of the Examiner Performance Appraisal Plan (PAP) rating requirements. The PERX Program will provide SPEs a biweekly email with information to recognize and engage examiners during normal course of supervisor-employee feedback.

1. Implementation of PERX in full Patent Corps

A. The first phase of the PERX Program (PERX SPE Email) will begin after discussions with POPA. When Patents will continue discussions with POPA on additional phases of the PERX Program (i.e. PERX Badge System) as they develop. Patents will continue its monthly briefings with POPA using the “On-Going Discussions” process with the Union as defined in Section 3 below for developing new phases of PERX.

B. The Time Routing Performance Appraisal Plan Memorandum of Understanding (dated 1/24/2019) remains the process governing Examiner Performance Ratings and Performance Management. The PERX Program is a separate and unrelated recognition program that is intended to recognize Examiners for accomplishments not covered by their performance appraisal plan. Should management elect to implement changes to the PERX Program, to the extent required by law, Patents will provide POPA notice and opportunity to bargain the change.

C. Examiners will be given an opportunity to elect a preferred method of communication for receiving recognition (i.e., phone call, instant messaging or email).

2. Data collection

A. Patent Corps Implementation Survey. Patents will provide Examiner survey (listed in Appendix B) after the PERX SPE email is implemented throughout the Patent Corps. The survey will be issued bi-annually the first two years the program is implemented in the Corps. and issued thereafter on a schedule agreed to by the parties to this Agreement. The survey in Appendix B will be used unless both parties agree to change/amend the survey questions. Examiners may volunteer to fill out the anonymous and voluntary survey, and data will be shared and discussed with POPA as part of the on-going discussions in paragraph 3 below. POPA will have three weeks to provide comments to the final survey questions. A summary of the survey results will be shared with POPA.

B. In addition, if Management surveys Supervisory Patent Examiners (SPE) about the PERX Program, Management will provide POPA a summary of SPE survey results that is used by Management when evaluating and developing the PERX program.

C. The data provided pursuant to this section will be used by the parties as part of On-going Discussions listed below.

3. Ongoing Discussions with the Union

A. Either party may request a meeting to discuss any issues related to the implementation of the PERX Program. The Parties agree to meet to discuss and attempt to resolve issues related to the implementation of the PERX Program upon request of either party. If either party believes that changes to the PERX Program implementation would be useful, the parties will make a good faith effort to expeditiously resolve any issues relative to the proposed changes. Changes will be implemented upon agreement of the Parties.

B. If the Parties fail to reach agreement following discussions provided in the paragraph above, this Agreement may be reopened at any point from the date it is signed.

C. If, during any period of reopening, the USPTO determines to move forward with an implementation change, it will provide notice to POPA and provide an opportunity to bargain to the extent required by law. Following notification, bargaining will be at POPA's request. Bargaining will be conducted in accordance with the parties' mid-term bargaining ground rules starting with the opportunity for meetings with affected employees. The USPTO will maintain the status quo regarding the proposed changes until resolution of the issue, or the completion of bargaining (including mediation and impasse proceedings), unless permitted by law to implement these proposed changes before this time. If agreement is not reached over a POPA-proposed change, POPA may notify the USPTO of its intent to bargain to the extent required by law pursuant to midterm ground rules, beginning with the submission of POPA proposals.

3. Bargaining Obligation Fulfilled

POPA acknowledges that the USPTO's obligation to negotiate over the Examiner Survey and the implementation of PERX SPE Email has been fully satisfied.

4. Effective Date of this Agreement

This Agreement will be effective between the Parties upon the MOU passing Agency Head Review or within 30 days of the last party signing this Agreement, whichever is sooner.

Signatures:

 _____ 1/3/2023 _____

Kathleen Duda
President, POPA

Date

James Trammell
Director, TC 3600

Date

Appendix A

Guidelines of the Patent Employee Recognition for eXcellence (PERX) Program

Purpose of PERX

PERX has been designed to provide SPEs a better means to recognize and engage Examiners over activities they voluntarily strive to achieve in. It is meant to be a positive reinforcement program outside of one-year PAP rating measures to assist with improving the SPE-Examiner relationship through more positive feedback and increasing engagement through recognition. Ultimately PERX's intention is to create a friendly and quality relationship between SPEs and Examiners through positive interactions.

SPEs are sent an email with positive feedback on all their examiners from anniversary dates to milestones that an Examiner could be recognized for. The SPE can then voluntarily (not mandated) elect to call, IM or email examiners to provide the positive recognition to their examiners. SPEs are allowed to choose whom to contact and provide positive re-enforcement based on their knowledge of the Examiner and other factors.

PERX recognition covers anything that an Examiner does that adds value (excellence) to the Agency so the PERX team is looking at a variety of ways to recognize employees and provide positive feedback for the things they do. PERX is not to be used for performance or substitute performance measures agreed to with the POPA.

PERX Principles

1. Create **more** instances of **positive** Examiner recognition.
2. Improve **engagement** between Examiners and Management.
3. Highlight activities Examiners voluntarily strive for **outside of the Examiner's rating under the PAP requirements.**

4. Create a **fair** and **equitable** system for the opportunity to recognize **everyone** – by providing a broad spectrum of achievements.
5. Just recognize **past** accomplishments Examiners voluntarily choose to meet.
6. Maximize **positive impact** on Examiners and SPEs with minimal time investment utilizing the current Examiner-SPE feedback.

Examples of PERX Milestones and Activities SPEs may acknowledge during interactions with Examiners:

- Examiner Level
 - Activities i.e. Recent Board Affirmances, Examiner Production Streaks.
 - Milestones i.e. EOD date anniversaries, 1st Patent Anniversary, and Anniversary of becoming a Primary Examiner.
 - Term Adjustment – Examiners not have TSS Returns from LIEs over a period of several days to weeks
 - Examiners who have not reached the docket management ceiling in any of their cases.
 - Examiners who initiate an examiner-initiated interview summary with either the applicant or their attorney.
 - Examiner activities that further the Agency’s strategic plan goals.
- Art Unit (AU) Level
 - Activities i.e. AU Average Amendment Turnaround Time
- Patents Historical Facts: highlights past notable patents milestones and anniversaries; changes every biweek.
- SPE’s advised to consider Examiner’s full performance situation in deciding what activities to recognize.

Union Engagement

The PERX team recognizes that engagement with the Union is important to the development of the program therefore the PERX team is committed to engaging

the Union as part of the program's development. Discussions with the Union will be on-going so both parties can further develop additional tools and methods for promoting and providing positive recognition to employees.

Appendix B

Examiner Survey

1. Have you noticed an increase in positive recognition from your SPE since Feb. 2022? Yes or No
2. Do you want your SPE to give you more positive recognition? Yes; No, it's just right; No, I want less recognition
3. How does receiving positive recognition from your SPE affect your job satisfaction? Substantially improves; Moderately improves; No impact; Moderately decreases; Substantially decreases
4. How would you like to receive positive recognition from your SPE? (check all that apply) One-on-one; AU meeting; Email; IM; Other
5. If meeting one-on-one with your supervisor to discuss positive recognition, how long would you prefer the conversation last?
I do not need positive recognition time; 1-5 minutes; 6-15 minutes; 16-30 mins; 61+mins
6. Is there anything specific you would like to be recognized for? (please specify)