

POPA note: With regard to Comp Time, see paragraph 3(f) below.

**Agreement On EAST/WEST Implementation
Between The United States Patent and Trademark Office and
The Patent Office Professional Association**

1. The parties to this agreement, The United States Patent and Trademark Office (USPTO or Agency) and the Patent Office Professional Association (POPA or Association) enter into this agreement to resolve the issues surrounding the implementation of the EAST and WEST automated search systems. This agreement covers the impact of the changes in working conditions caused by the removal of the APS/Messenger search system and its replacement with EAST and WEST on October 9, 1999, and by the unavailability from October 1, 1999 to October 29, 1999, of the X25 telephone lines used for commercial database searching. It does not cover issues related to the implementation of mandatory electronic searching, or methods, means, and technology for doing work associated with electronic tools, nor does it cover any issues associated with compensatory time other than that specifically set forth below in reference to the expanded number of hours available. This agreement has been reached through partnership in accordance with the agreement between the parties dated March 9, 2000, and is not an admission of fault or wrong-doing by either party.

2. In consideration of the Agency taking the actions set forth and described below, the Association agrees:

a) to withdraw, upon receipt of the Agency certification set forth below, all grievances pertaining to employees receiving oral warnings based on workflow or production for work performed during the first quarter of FY 2000, so long as the employee(s) subject to the grievance are still employed by the Agency; and

b) to withdraw, upon receipt of the Agency certification set forth below, all grievances based on written warnings issued based on workflow or production for work

performed during the first quarter of FY 2000, so long as the employee(s) subject to the grievance are still employed by the Agency.

3. In consideration of the Association taking the actions set forth and described above, the Agency agrees:

a) to rescind all oral warnings issued to any employee for workflow or production based on work performed during the first quarter of FY 2000, so long as the employee to whom the warnings were issued is a current employee and the employee successfully completed the oral improvement period. By rescinding these oral warnings, the Agency agrees to remove all copies of the written confirmation of an oral warning, except that one copy may be maintained as part of the files associated with this agreement, and to provide each affected employee with a written notice that all such oral warnings have been rescinded;

b) to rescind all written warnings issued to any employee for workflow or production based on work performed during the first quarter of FY 2000, so long as the employee to whom the warnings were issued is a current employee and the employee successfully completed the written improvement period. By rescinding these written warnings, the Agency agrees to remove all copies of the written warning, except that one copy may be maintained as part of the files associated with this agreement, and to provide each affected employee with a written notice that all such written warnings have been rescinded;

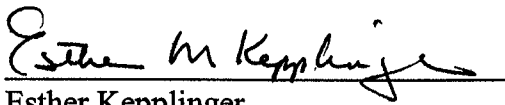
c) to provide written certification to the Association that the Agency has rescinded all such oral and written warnings in accordance with 2(a) and 2(b) above;

d) to maintain, until notification to POPA and completion of any bargaining required by law, the availability of the USPATFULL and Derwent WPIDS databases, or their equivalents, on the commercially available databases, in chemical areas of art where these databases are currently being used and any other areas where these databases can be shown to be necessary;

e) to provide to POPA within two weeks of signing this agreement, a list of all examiners who have used these systems dating back to October 1, 2001; and,

f) to permit all eligible bargaining unit members to earn up to 400 hours of compensatory time and/or credit hours per fiscal year.

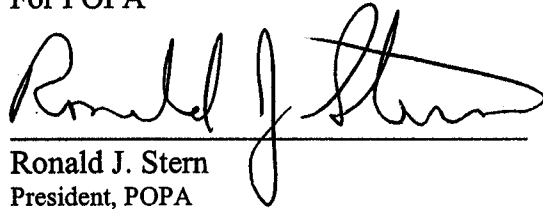
For the USPTO



Esther Keplinger
Deputy Commissioner for Patent Operations

Date: 5/9/02

For POPA



Ronald J. Stern
President, POPA

Date: 5-9-02

MEMORANDUM

DATE: March 17, 2000

TO: Patent Professionals in the POPA Bargaining Unit

FROM: Nicholas P. Godici
Acting Assistant Commissioner for Patents

SUBJECT: Continuation of Expanded Compensatory Time and Credit Hours

In memoranda I issued on November 19, 1999 and December 15, 1999, I announced changes to the compensatory time and credit hour programs for patent examiners and other professionals in the POPA bargaining unit who use automated search systems. These modifications, made after consulting with POPA, expand the allowable shift hours for these employees. Our intent is to spread usage of the automated systems throughout the day. Specifically, we are interested in promoting use of these systems outside the peak usage period of 9:30 AM to 3:00 PM.

As a result of an agreement signed on February 25, 2000 between management and POPA to create a Partnership Working Group on automation, the following modifications on the expanded use of compensatory time and credit hours will be in force for the remainder of this fiscal year. Any modifications to the comp and credit hour programs for next fiscal year will be communicated to you before September 30, 2000.

Effective the week beginning March 26, 1999, the cap on the total number of compensatory and credit hours that may be earned for the third and fourth quarters of FY-00 by Patent Examiners and other *patent professionals in the POPA bargaining unit* who use the search systems is expanded to 410 hours. This amount was calculated by adding an additional ten hours of compensatory/credit hours per week until September 30, 2000 to the current cap of 140 hours. The purpose of this change is to give you the flexibility to shift your workday hours.

The modifications to the comp time and credit hour programs, which I authorized in my earlier memo of December 15, 1999, will continue for the third and fourth quarters of this FY. In that memo, I authorized Patent Examiners and other *patent professionals in the POPA bargaining unit* who use the search systems to work comp time and credit hours before regular work hours on an employee's regularly scheduled Monday-Friday workday. Employees may earn comp time on regularly scheduled workdays beginning at 5:30 AM. Tour of duty hours, for the purposes of earning credit hours only, will begin at 5:30 AM for scheduled or unscheduled workdays.

The table below summarizes when comp time and credit hours can be worked.

PERIOD BETWEEN 3/26/00 AND 9/30/00

	Regular comp time	Credit hours
Regularly scheduled work day	Beginning at 5:30 AM, Ending at 11:30 PM	Beginning at 5:30 AM, Ending at 8:00 PM
Unscheduled or compressed days off	Beginning at 5:30 AM, Ending at 11:30 PM	Beginning at 5:30 AM, Ending at 8:00 PM
Weekends	Beginning at 4:30 AM, Ending at 11:30 PM	Beginning at 4:30 AM Ending at 11:30 PM (credit hours are not available for part-time employees on weekends)
Holidays (the restriction that comp time and credit hours must be earned either before or after the employee earns holiday pay has not changed)	Beginning at 4:30 AM, Ending at 11:30 PM	Beginning at 5:30 AM, Ending at 8:00 PM (credit hours are not available for part-time employees on holidays)

It is hoped that you will take advantage of these changes to shift your normal working day and thereby reduce the peak demands on the systems. Consequently, the provisions of the compensatory time and credit hour agreements that indicate that compensatory time/credit hours should not be utilized to avoid accessibility on core days are no longer applicable to this special circumstance. All other provisions of the agreements remain in effect. This includes the provision that no more than eighty hours of compensatory time or credit hours may be carried over from one biweek to the next, and the same pay cap provisions that apply to overtime still apply to comp time. The modification of the cap does not affect the limit, set by the Director, of the total number of paid overtime hours, comp and credit hours that can be worked in any pay period. Also, we must maintain our current level of customer service in terms of returning phone calls and being available especially to our West Coast customers.

Both Patent Management and POPA have been working together to address East/West issues in a timely and effective manner. I want to thank you for your continued cooperation and hope the extension of this work schedule flexibility is helpful.

MEMORANDUM**DATE:** December 15, 1999**TO:** Patent Professionals in the POPA Bargaining Unit**FROM:** Nicholas P. Godici
Deputy Assistant Commissioner for Patent Process Services**SUBJECT:** Further Temporary Modifications of the Compensatory Time and Credit Hour Programs to Spread Out Searches

On November 19, 1999, I issued a memorandum expanding the number of comp time and credit hours that could be earned in FY 2000 in response to the increased response time for search inquiries as a result of the recent deployment of the East and West Search Systems. After continued discussions between Patent Management and POPA leaders on ways to provide more opportunities for users to access the systems outside of these peak time periods, I have decided that a further modification on the use of compensatory time and credit hours will be implemented.

Effective the week beginning December 19, 1999 and continuing through March 25, 2000, Patent Examiners and other patent professionals in the POPA bargaining unit who use the search systems may earn regular comp time (comp time) and credit hours before regular work hours on an employee's regularly scheduled Monday-Friday workday. Employees may earn comp time on regularly scheduled workdays beginning at 5:30 AM. Tour of duty hours, for the purposes of earning credit hours only, will begin at 5:30 AM for scheduled or unscheduled workdays. The restrictions on when comp time or credit hours can be earned after the regularly scheduled workday or on weekends have not been modified. The purpose of this change is to give you the opportunity to work comp time or credit hours at times during the day when the search systems will be most effective. The table below summarizes when comp time and credit hours can be worked.

PERIOD BETWEEN 12/19/99 AND 3/25/00

	Regular comp time	Credit hours
Regularly scheduled work day	Beginning at 5:30 AM, Ending at 11:30 PM	Beginning at 5:30 AM, Ending at 8:00 PM
Unscheduled or compressed days off	Beginning at 5:30 AM, Ending at 11:30 PM	Beginning at 5:30 AM, Ending at 8:00 PM
Weekends	Beginning at 4:30 AM, Ending at 11:30 PM	Beginning at 4:30 AM Ending at 11:30 PM (credit hours are not available for part-time employees on weekends)
Holidays (the restriction that comp time and credit hours must be earned either before or after the employee earns holiday pay has not changed)	Beginning at 4:30 AM, Ending at 11:30 PM	Beginning at 5:30 AM, Ending at 8:00 PM (credit hours are not available for part-time employees on holidays)

The effectiveness of this modification will be evaluated along with any enhancements of the hardware and software systems to determine if the modification should be extended beyond March 25, 2000.

It is hoped that you will take advantage of these changes to modify your work hours and expand the number of comp time and credit hours you can work, and thereby reduce the peak demands on the systems. The provisions of the original agreements that indicate that compensatory time/credit hours should not be utilized to avoid accessibility on core days are no longer applicable to this special circumstance. All other provisions of the agreements, other than as amended in this or my earlier November 19, 1999 memorandum, remain in effect. Also, we must maintain our current level of customer service in terms of returning phone calls and being available especially to our West Coast customers.

Both Patent Management and POPA are continuing to work together to address East/West issues in a timely and effective manner. I ask for your continued understanding and cooperation during this transition period.

MEMORANDUM**DATE:** November 19, 1999**TO:** Patent Professionals *in the POPA Bargaining Unit***FROM:** Nicholas P. Godici
Deputy Assistant Commissioner for Patent Process Services**SUBJECT:** More Compensatory Time and Credit Hours to Spread Out Searches

The recent deployment of the East and West Search Systems has resulted in increased response time for search inquiries. Preliminary data suggests that delays are longer in certain time periods when use of the system is at peak level. This is occurring at roughly between the hours of 9:30 a.m. to 3:00 p.m. Patent Management and POPA leaders have had several meetings to discuss ways to provide more opportunities for users to access the systems outside of these peak time periods. Accordingly, the following modifications on the use of compensatory time and credit hours will be implemented.

Effective the week beginning November 21, 1999, the cap on the total number of compensatory and credit hours that may be earned per fiscal year by Patent Examiners and other *patent professionals in the POPA bargaining unit* who use the search systems is hereby increased to 320 hours until March 25, 2000. This amount was calculated by adding an additional ten hours of compensatory/credit hours per week until March 25, 2000 (mid-year FY00) to the current cap of 140 hours. The purpose of this change is to give you the opportunity to shift your workday hours.

The effectiveness of this modification will be evaluated along with any enhancements of the hardware and software systems to determine if the modification should be extended beyond March 25, 2000. If the modification is terminated at this point, all eligible employees will be authorized to earn 140 hours of additional compensatory or credit hours for the remainder of the fiscal year.

It is hoped that you will take advantage of these changes to shift your normal working day and thereby reduce the peak demands on the systems. Consequently, the provisions of the original agreements that indicate that compensatory time/credit hours should not be utilized to avoid accessibility on core days are no longer applicable to this special circumstance. All other provisions of the agreements remain in effect. This includes the provision that no more than eighty hours of compensatory time or credit hours may be carried over from one biweek to the next, and the same pay cap provisions that apply to overtime still apply to comp time. The modification of the cap does not affect the limit, set by the Director, of the total number of paid overtime hours, comp and credit hours that can be worked in any pay period. Also, we must maintain our current level of customer service in terms of returning phone calls and being available especially to our West Coast customers.

Both Patent Management and POPA are currently working together to address East/West issues in a timely and effective manner. I ask for your continued understanding and cooperation during this transition period and hope this added flexibility.

AGREEMENT ON COMPENSATORY TIME, ELECTRONIC COMMUNICATIONS, AND PART-TIME FOR THE POPA BARGAINING UNIT

The Patent and Trademark Office and POPA, working through partnership, have developed the following operating procedures for authorizing approval of compensatory time in lieu of payment for overtime, for the use of electronic communications, and for part-time employment. This agreement applies to all members of the POPA bargaining unit. Compensatory time will be available for employees whether or not paid overtime is available to those in their employment position.

1. This agreement will continue indefinitely, until such time as the PTO may propose changes to the agreement under the existing mid-term bargaining practice or the agreement is superseded by an article or articles of a subsequent collective bargaining agreement between POPA and PTO.

COMPENSATORY TIME

2. An employee is, as always, responsible for returning telephone messages promptly.
3. Since compensatory time is an alternative form of compensation to paid overtime, the overtime policies established for professional employees under the Assistant Commissioner for Patents as stated in the memorandum dated March 26, 1990, and signed by James E. Denny will apply to compensatory time. However for the purposes of earning compensatory time, fully satisfactory performance will be based on an employee's cumulative most recent four full quarters of work contrary to item (6) of that memorandum for non-first year employees. No Group specific restrictions will be applied to earning compensatory time contrary to item (7) of that memorandum.
4. This compensatory time program contains no waiver of due dates. The employee is responsible for making arrangements to meet established due dates or obtaining adjustments as allowed by the Supervisory Patent Examiner (SPE).
5. An employee cannot carry forward more than a cumulative of 80 hours of compensatory time including all types, except religious compensatory time, from one pay period to the next.
6. Employees will be limited to earning no more than 140 hours of all types of compensatory time per fiscal year, excluding those hours earned in the maternity/paternity and religious compensatory time programs.
7. This program covers full-time and part-time employees in the bargaining unit. Compensatory time may be earned in accordance with the regulations governing the earning of overtime. Part-time employees may earn compensatory time only for hours of work in excess of scheduled 8, 9, 10 hours a day, or 40 hours in a week. Further, a part-time employee

cannot carry forward more than a pro-rata share of 80 hours of compensatory time of any type, excluding religious compensatory time, from one pay period to the next. Part-time employees will be limited to earning a pro-rata share of 140 hours of compensatory time per fiscal year, excluding those hours earned under the maternity-paternity policy and the religious compensatory regulation. The pro-rata share will be determined by dividing the number of part-time employee's regularly scheduled hours of work by forty hours.

8. The use of compensatory time will follow the same guidelines as annual leave in that the use of compensatory time must be approved in advance except when the government is on unscheduled leave.
9. Consistent with the needs of the Office and in accordance with law and regulation, no request for earning compensatory time shall be unreasonably denied. No request for using compensatory time shall be denied if, at the time of the request, the employee (1) has no interviews or meetings scheduled for the leave period, (2) is under no duty to respond during the leave period to an individual who is under a running statutory time constraint, or (3) makes appropriate arrangements for such interviews, meetings and/or communications. Compensatory time off will be deducted from a bargaining unit member's production time for the bi-weekly period in which the time off was taken. The compensatory time worked will be added to the member's production time for the bi-weekly period in which the time was worked.
10. Compensatory time must be earned in advance of being used.
11. The same pay cap limitations that apply to paid overtime apply also to compensatory time. Compensatory time by regulation cannot be earned for the hours when holiday premium pay is authorized. This program authorizes compensatory time as an alternate to regular overtime, but does not authorize compensatory time as an alternate to holiday premium pay. That is, an employee working compensatory time on a holiday, must do so either before or after the holiday premium pay hours.
12. Compensatory time may not be earned on a day when the employee is incapacitated because of sickness, or uses leave for the entire day.
13. An employee may not earn compensatory time on any normal business day until the employee has completed his/her normal work schedule. On an employee's compressed day off, the employee may begin to earn compensatory time beginning at 6:30 a.m. The amount of compensatory time that may be earned on Saturdays and Sundays during any one bi-week is sixteen (16) hours. Exceptions to the above may only be granted by the Assistant Commissioner for Patents or his/her designee.
14. The compensatory time program may not be utilized as a means to constantly

substantially avoid accessibility on core days, i.e. Tuesday and Thursday.

15. The Assistant Commissioner for Patents or designee has the discretion and authority to ease any of the restrictions set forth in this agreement on a case by case basis or for purposes of operational needs.

ELECTRONIC COMMUNICATIONS

16. Bargaining unit members will utilize electronic mail for the purpose of both receiving work related messages or information and for responding to work related inquiries made by electronic mail, including internet electronic mail. Electronic messages will generally be reviewed at least once every workday and responded to by any appropriate means.
17. The parties acknowledge that from time to time the Office issues electronic versions of Office policies and procedures that typically contain the most up-to-date and accurate data available and that such versions are the preferred source of guidance and should be utilized.

PART-TIME

18. This program consists of two separate components: a first component, the “child-care and Eldercare component”, which is specifically designed to meet the growing demand for part-time work for parents with childcare responsibilities, and for employees with eldercare care responsibilities, i.e. parent and grandparent. There are two childcare categories, i.e. parents with a pre-school age child (one who has not yet begun first grade), and parents with a school age child (one who has not yet begun seventh grade). The second component, the “Retention Component”, is designed to enable the Office to retain experienced employees who wish to work a part-time schedule for other reasons. Within the second component, employees need not disclose their reason for working a part-time schedule.
19. Number of Participants- This program will include a maximum of 100 slots; 80 slots will be reserved for the Childcare and Eldercare Component, and 20 slots will be reserved for the Retention Component. Priority in the Childcare and Eldercare Component will go to employees with pre-school children. If the cap of 80 is reached, a parent with a preschool aged child may still convert to part-time, however there will be no openings for a “school age” and “eldercare” participant until the number of total participants goes back below 80.
20. Length of Participation - Each participant will be eligible to serve a minimum of 3 months and a maximum of 18 months in the program. Participants are eligible to reapply in 3-18 month increments so long as slots are available. When applying, each employee will specify the desired length of participation and the component of the program under which he or she is applying. At the end of the agreed upon period of part-time status, the employee shall revert to full-time

status or may reapply if slots are available. The Office shall allow earlier conversion to full-time status at an employee's request consistent with the needs of the Office.

21. Eligibility and Schedules-

- a. Within the Childcare and Eldercare Component of the program, employees will work a regular set schedule of between 32 and 64 hours per biweek ("scheduled working hours"). The regular schedule will include at least 2 days per week including at least one core day (Tuesday or Thursday). Each participant in this component will work a minimum of 4 hours and a maximum of 10 hours per day ("scheduled workday").
- b. Within the Retention Component of this program, only employees that are GS-11 and above, with at least three-years PTO experience and a current rating of record of at least fully successful and current performance of at least fully successful, will be eligible to participate. Participants in this component will work a regular set schedule of between 40 and 64 hours per biweek. The regular schedule will include at least three days per week, including both core days (Tuesday and Thursday). The participant will work a minimum of 4 hours and a maximum of 10 hours per scheduled workday. At least 4 hours of every scheduled workday must fall between the hours of 8:30 a.m. and 6:00 p.m.

22. Procedures-

- a. The Office will allocate slots in the childcare component of the program to eligible applicants based on the order of receipt of their requests by date to the appropriate Group Director's or equivalent's office. All employees currently working part-time for childcare will be automatically given slots in this program. In the event two or more requests from eligible employees are submitted on the same date and there are not enough slots for all, the service computation date will determine who gets to participate with preference going to the most senior employees.
- b. The Office will allocate slots in the retention Component to eligible applicants based on the order of receipt of their requests by date to the appropriate Group Director's or equivalent's office. In the event two or more requests from eligible employees are submitted on the same date and there are not enough slots for all, then grade, then degree of signatory authority, and then time-in-grade, with preference given to Primary Examiners, will determine who gets to participate.
- c. Requests to participate will be forwarded to Janice Howell (Director, Group 2800). The Office shall respond in writing to all requests within fourteen days. Copies of denials of requests for part-time employment shall be given to the employees and POPA.

- d. The Office shall provide POPA with a cumulative list of employees requesting part-time employment and the disposition of each on a quarterly basis.

23. Conditions-

- a. Subject to supervisory approval, an employee may be permitted to amend his/her choice of non-work days to another day or days in the same biweek, provided that such amendment will not prevent the unit to which the employee is assigned from providing its normal service to the public and the Office. No amendment can be made which results in an amended scheduled workday to fall on a holiday. Such amendment may not be used to habitually change your regular work schedule.
- b. Subject to prior supervisory approval, an employee will be eligible to schedule and work additional regular paid hours when necessary to meet the needs of the Office or the employee.
- c. Subject to prior supervisory approval, an employee may be permitted to change his/her work schedule during the program (i.e. a change from 2 ten hour days per week to 3 nine hour days per week).
- d. To the extent allowed by law, a part-time employee will be eligible, under the same criteria applied to full-time employees to earn and use compensatory time and paid overtime.
- e. Upon conversion from a full-time to a part-time work schedule, when there is insufficient time to allow the timely completion of all items of work within their prescribed time periods or in accordance with special handling instructions , the immediate supervisor will determine the number and priority of those items of work to be completed by the employee.
- f. A part-time employee will be subject to the same performance requirements as a full-time employee.
- g. All rules and regulations applicable to other part-time employees(i.e., leave calculations, within grade increases, promotions, etc.) will apply. Agreements covering awards, participation in the signatory program, etc., also apply.
- h. Matters within the discretion of the Office, including training and education programs, and other employee activities, shall be equally available to full-time and part-time employees. However, PTO subsidized training, such as LSTAP, outside of the

employee's scheduled working hours will not normally be available to program participants. Employees may be required to temporarily convert to full-time status to attend Office provided training, including details.

- i. The Office will take into account each employee's seniority and work schedule when assigning Office space. Part-time employees at the GS-13 and above level may be required to share an office when space needs dictate. Two employees within a group may request to share an office and said request will be honored, if reasonable.
 - j. The Office will issue a memo on shared folders within fourteen days of signing of this agreement to all patent professionals which will fully describe the part-time program. The memo will include an electronic part-time application form. The shared folders memo will be updated as to slot availability every six-months during the program. The memo will include information regarding the number of available slots under the program as well as eligibility criteria, the enrollment period, and application procedures. The memo will also inform employees of the existence of a hardship part-time program separate from this program for employees with special needs based on, for example serious illness of a family member or a physical condition of the employee. The memo shall also inform employees that for the first year after birth of a child, an employee may fashion a part-time work schedule by using the leave without pay available under the PTO's maternity/paternity leave policy and the Family and Medical Leave Act (FLMA), and therefore there is no need for parents to be on this program until their child is one year old.
24. Employees currently working permanent part-time schedules and rehired annuitants on part-time schedules will not be affected by this agreement. It is the intent not to affect the status of two permanent part-time employees and one rehired annuitant presently working a part-time schedule.
25. It is agreed that on a bi-annual basis the parties will review the appropriateness of the number of slots in this program. The number of slots would be changed if there is bi-lateral agreement.

For the Office:

For the Union:

_____/s/_____

_____/s/_____

Nicholas P. Godici
Acting Assistant
Commissioner for Patents

Ronald J. Stern
President, POPA

Date: 3/23/99

Date: 3/23/99