POPA NEWS
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Examiners Vote with Their Feet on Flat Goal Pilot Program

POPA Encourages Productivity Incentive Alternatives

When the USPTO announced its Flat Goal Pilot program in April 2006, it set a goal of enrolling 300 examiners by this year's sign-up deadline of Feb. 23. After multiple employee briefings and e-mailed Commissioner's Corner endorsements of the program, by the end of February the pilot had only 105 volunteers. Even after extending the deadlines, management has only convinced approximately 180 employees to sign up—not a rousing vote of confidence in management's program.

Examiners have voted with their feet.

The agency worked hard to inform all 5,000+ examiners about the program. The first three of nine Flat Goal Pilot employee briefings by USPTO managers were standing room only, with about 300 examiners attending each briefing. The crowds had diminished by half as of the fourth briefing, as word spread through the examining corps, and attracted far fewer by the last one. Examiners' questions about production dominated every session.

"If this had been the laptop pilot program seeking volunteers, management would've had 300 sign up on the first day," commented one senior primary examiner.

Examiners Do the Math

Examiners are smart about their careers. As the following letters show, many did the math and learned that the Flat Goal program would penalize, rather than promote, their production and career success, so they didn't sign up. On the other hand, those who volunteered for the program likely calculated that they'd do well. With both trends, this self-selected sample will produce pilot results that can only rightly be used for a future voluntary program and not extrapolated to the examining corps as a whole.

However, as one of the letter writers aptly noted, the USPTO intends to use the results of the pilot to support its move to a flat goal production system for all examiners. The first objective outlined in the USPTO Strategic Plan for 2007-2012 includes an initiative to "Develop alternatives to the current performance and bonus systems." (www.uspto.gov/web/offices/com/strat2007/stratplan2007-2012.pdf)

Cut Losses and Move Forward

The USPTO has more and better options for providing production incentives to examiners. POPA agrees with the employee who wrote that an employee-friendly program "that rewards instead of punishes" is well within the agency's reach.

For example, POPA has repeatedly recommended creating more levels of production awards. Currently examiners receive a production award if they achieve 110 percent of their production goal. If, after striving for a while, they realize they can't make that goal, they naturally think, "Why knock myself out with all this voluntary overtime if I can't get something for my effort?" So their production drops to a fully successful level.

If the USPTO creates one or more intermediate production awards—say at 105 percent or at every percentage point over 100 percent—it encourages examiners to try their best throughout the quarter, rewarding them for every ounce of production effort. The cumulative effect of so many examiners giving so many extra ounces every quarter would equal tons more production—and a big boost to employee morale.

POPA stands ready to work with USPTO leaders to design cost-effective production programs that reduce the patent backlog while encouraging, rewarding and respecting employees.

The Famous Engineering Formula

Examiners Speak Out on Flat Goal Pilot

The names of the examiners who authored the following letters were withheld for their protection.

I won't be going on the Flat Goal Pilot because, had I done so last quarter, I would have been fired.

Using the flat rate calculations presented [by the USPTO], I decided to see how I would have fared under the proposed pilot.

Last quarter I used a fair amount of my accumulated annual leave. I took nine days at the beginning of the quarter and four days at the end, with perhaps a few days or half days here and there.

I also had 69 hours of other time, which I used:

- training two junior examiners (one probationary);

(*continued on page 2*)

Examiners Speak Out on Flat Goal Pilot *(continued from page 1)*

- classifying new cases (I can generally process about 15 eDAN messages per hour. I usually go through 500-1,000 messages per quarter, so the seven hours allowed under the Flat Goal Pilot is woefully inadequate.);
- assuming amendments from examiners who left the agency or who had family emergencies (I generally use four hours of other time if I have to make these amendments non-final due to new rejections. The Flat Goal Pilot has no provision for this activity.); and
- reopening prosecution on cases that have been returned from the Board of Patent Appeals and Interferences. My group director and quality assurance specialist mandated these reopenings due to changes in case law and examining practice between the time that the cases were sent to the Board and when they were ultimately decided. For these cases, no counts remain and I generally work six to eight hours per non-final action.

The above other time deductions are more than reasonable; I usually ask for less time than I actually spend as a courtesy to my supervisor.

According to the Flat Goal Pilot calculations, my adjusted examining hours for last quarter would have been 385.3 hours. At an expectancy of 25.9 for a GS 12 and a position factor of 1.4 for senior examiner, my expected production units for last quarter would have been 20.8 PUs for 100 percent.

My actual examining hours for last quarter were 266 hours, and my production units for last quarter were 15.0. Under the Flat Goal Pilot, my percent of expectancy would have been 72 percent!

Under the current system, my production was 104 percent. While I did not receive a bonus for the last quarter, I was amply rewarded by being able to take a vacation, assist my supervisor and technology center with their quality and workflow management goals, and all without getting fired!

I have heard many primary examiners speak in the hallways about the Flat Goal Pilot. The consensus seems to be that the pilot would result in a plethora of unsatisfactory ratings, even for high-producing primaries, given its built-in unrealistic goals regarding time needed for training, classification and annual leave, to name just a few.

I hope other primary examiners will do similar calculations and provide them to union and agency officials. If primary examiners do the calculations, few, if any, will enroll in the pilot program. This will severely skew the pilot's results and should be taken into account.

After using last quarter as evidence to make my case, I do not wish to voluntarily enroll in a program that will drop my production below 95 percent and lose my Maxiflex privileges, at the very least.

—*Senior Level Primary Examiner*

* * * *

For the record, I oppose the Flat Goal proposal for the following reasons:

- Flat goal will jack up production in an art where there is already not enough examining time.
- Will require even more voluntary overtime (this is the strongest argument for a non-primary).
- Fewer primaries will be available for mentoring (since fewer will volunteer to do so under Flat Goal). Mentoring will fall on the supervisor.
- Flat Goal will not allow for much needed flexibility in other time and quarterly production.
- Being fully successful will require 100 percent.
- Promotions to the next GS level will be more difficult to get. —*Examiner*

* * * *

I have recently come to understand the new Flat Goal program and the impact it will have on an examiner. Based on calculations and shared understandings with colleagues, this program is really a way to up production for examiners.

First, in my art unit there is already not enough examining time allotted. Under Flat Goal, I, as well as many other examiners in my art, will be required to put in even more voluntary overtime to meet goals, including basic production requirements. Unlike much of management that comes and leaves after a regular 8-hour workday, many if not most examiners work well over the standard 40 hours per week. My estimate is that most examiners work a solid 50-60 hours a week or spend even more time in the office on issues not directly related to examining.

Of additional concern is the availability of primaries and mentors if Flat Goal is invoked. From what colleagues who mentor tell me, primaries will no longer wish to mentor junior examiners or will be less available for questions and discussion on cases. Mentoring will thus fall on the supervisors who are already hardly available to work directly with examiners on details of applications.

Flat Goal is really a dark cloud over the USPTO. As a result of the docket work flow system, examiners need to have flexibility with claiming other time and quarterly production. With Flat Goal we will have to work ahead in production before being able to take a well deserved vacation, to which all employees are entitled.

Every year the requirements for examiners become harder. It's demoralizing that 100 percent will be set as a minimum requirement and promotions will be more difficult to attain. Instead of creating a Flat Goal for getting more out of examiners, management should put thought into creating a good, positive working environment, one that rewards instead of punishes. Surely another program that is employee friendly can be proposed to take care of the patent backlog.—*Examiner*

Thanks for the Memories — and the Hardware and Software

The USPTO has reclassified over 100 employees in the Office of the Chief Information Officer (OCIO) from the 1550 job series into the 2210 job series, thereby removing them from the POPA bargaining unit.

POPA and its members want to thank the OCIO personnel for their dedication, professionalism and expertise in developing, maintaining and upgrading the patent search systems over the years.

Several years back, former CIO Dennis Shaw acted to upgrade many OCIO personnel to the 1550 series by offering them necessary training. Many OCIO personnel took advantage of this coursework and subsequently qualified for the 1550 series and the opportunity to advance to the GS-14 level. This improved the morale of the OCIO professionals and provided the USPTO with a very stable, extremely experienced group of IT professionals to develop and maintain the USPTO's many highly complex automated search and information systems. This approach worked well for the USPTO and for patent examiners who have had to rely more and more on electronic tools to do their work.

OCIO employees have done a very good job in maintaining the computer search systems and keeping them up and running for the use of the examiners over the years.

Special thanks to Terri Schenk of OCIO for her work on behalf of fellow OCIO employees and for representing them on the POPA Executive Committee.

OCIO Employees Take Hit on Ratings, Awards

USPTO actions with OCIO personnel indicate that senior agency officials and OCIO management intend to discourage OCIO personnel from staying with the agency.

The USPTO arbitrarily determined that too many outstanding ratings and awards were being paid to OCIO personnel. OCIO management followed through and reduced the number of outstanding ratings, prompting many complaints from long-time award recipients.

OCIO management systematically down-rated OCIO personnel. Some people deemed outstanding over several years suddenly found their ratings lowered to fully successful and therefore not qualified to receive even the minimum monetary award. Many were told not to worry because fully successful is a good rating.

Adding insult to injury, the USPTO determined that many OCIO personnel should no longer be classified as professionals within the POPA bargaining unit and reclassified most of those in the GS-1550 positions. Several employees sought POPA's help with their ratings and POPA has grievances pending on their behalf.

Slow Computers for Hotelers? Let Them Eat Time, USPTO Says

The following is a verbatim e-mail to Patents Hoteling Program participants in response to concerns about dawdling remote connections to USPTO computers. Computer system slowness cuts examiner productivity, but USPTO managers essentially state that it's not their problem—hoteling examiners are expected to absorb time lost due to computer problems. Examiners considering hoteling need to understand this aspect of the program before applying.

I have been informed of a slow response to system performance when remoting into Office workstations. The slowness has been traced to an incoming AT&T line at the USPTO. The Office is currently working with AT&T to correct the problem. Should you be experiencing unusual slowness resulting in inefficiencies while working from home, you may want to refer to the policy document that gives you the option to come into the Office and work in a hoteling room until the problem is resolved. If you have been experiencing slow responses that have not yet been reported, it would be beneficial to you and the program if you could report your issue directly to the help desk at 571-272-9000 or (toll free) 1-877-786-3721 or via e-mail at helpdesk 9000. Here is the policy:

In the event that remote access or equipment problems prohibit working at an alternate work site, the Agency may direct affected employees to report to the USPTO work site, change their work schedule or request appropriate leave, at the employee's option. Thanks.

Larry I. Schwartz, Project Team Leader – Telework Program

POPA Budget — 2006 –2007

This report includes income and expenditures of the Association as of Dec. 31, 2006, and the 2007 Association budget approved by the Executive Committee.

Income	**2006 Actual**	**2007 Budget**
Dues	$ 202,190.00	$ 202,800.00
Interest	$ 5,448.95	$ 5,200.00
Total Income	**$ 207,638.95**	**$ 208,000.00**
Expenditures		
Litigation, Lobbying	$ 108,754.14	$ 125,000.00
Newsletter	$ 33,931.08	$ 33,000.00
National Activities	$ 685.00	$ 2,000.00
Training & Conferences	$ 4,470.50	$ 6,000.00
Legal Info. Resources	$ 7,248.35	$ 9,000.00
Elections*	$ 2,810.95	$ 0
Administrative	$ 10,913.33	$ 13,800.00
Membership Services	$ 6,531.21	$ 9,000.00
Membership Meetings	$ 2,439.15	$ 3,000.00
Capital Expenditures	$ 3,953.07	$ 7,000.00
Total Expenditures	**$ 181,736.78**	**$ 207,800.00**
Net to Reserve	**$ 25,902.17**	**$ 200.00**

* Election expenses are incurred only in even numbered years.

Notes: *National Activities:* Membership dues for national organizations such as Public Employees Roundtable and Society of Federal Employee and Labor Relations Professionals. *Administrative:* Includes expenses for accounting, secretarial, postage, office supplies and equipment. *Membership Services:* Membership incentives and participation in USPTO Community Day.

International Examiners' Reps Appeal to Patent Offices

An international coalition of patent examiners' organizations, including POPA, signed and delivered a joint letter April 13 to their respective government agency leaders urging serious measures to maintain meaningful protection of intellectual property.

The letter was based in part on topics discussed during a March meeting hosted by POPA, with representatives of the Central Staff Committee of the European Patent Office and the Professional Institute of the Public Service of Canada, Canadian Intellectual Property Office.

Over several days of meetings in Northern Virginia, the employees' organization representatives discussed similarities and differences among their patent practices and exchanged ideas for solving problems common to all. USPTO Director Jon Dudas visited with the delegation during their time here and answered questions.

As might be expected in a meeting of examiner representatives, discussions focused on production requirements. While our foreign colleagues learned of the implications of the USPTO's flat goal program, POPA learned of EPO management's plan to increase individual examiner production requirements. In both cases, it was obvious that the increased production requirements would adversely impact examination quality. In contrast, Canadian examiners have production goals comparable to the USPTO, but are not currently facing management initiatives to increase production.

In the letter, the patent professionals asked their patent office leaders to uphold patent system integrity through several actions:

- Allot more time to examine patent applications. The need for additional time has not abated with new technology. POPA estimates 10 percent to 20 percent more hours must be added to the currently allowed 20.4-hour average per case to assure continued patent quality.
- Balance incentive systems to equally reward allowances and rejections.
- Ensure that all patents are granted through independent examination without political interference.
- Grant more time for examiner technological, legal and examination training.
- Strengthen standards of patentability by enabling examiners to reject a patent application more easily based on a combination of references.
- Encourage collaboration with employee organizations rather than accepting adversarial relations. Instead of sinking millions in agency funds into trying to break employee unions, patent offices would benefit from tapping the experience of employee organizations to improve the examination process.

Increasing Production Standards at EPO

To better understand the impact of increasing emphasis on production, the Staff Union of the European Patent Office (SUEPO) commissioned an academic study to review the relevant scientific literature in two main categories:

- The economic objectives of patents and the role of patent examination with respect to the patent system.

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Representatives from international patent examiners' organizations met in Northern Virginia in March and held one session with USPTO Director Jon Dudas. Sitting (L-R): Edward Daintith, Chairman, Central Staff Committee of the European Patent Office (CSC, EPO); Jon Dudas, Director, USPTO; Robert Budens, President, POPA; Gaetan Provencher, Steward, the Professional Institute of the Public Service of Canada, Canadian Intellectual Property Office (PIPSC, CIPO). Standing (L-R): Howard Locker, Secretary, POPA; Randy Myers, Treasurer, POPA; Christian Schaeffler, Secretary, CSC, EPO; Larry Oresky, Vice President, POPA; Elizabeth Hardon, Vice Chairman (Munich), CSC, EPO; Jesus Areso, Vice Chairman (The Hague), CSC, EPO; Pam Schwartz, Asst. Secretary, POPA.

Open Letter From a Coalition of Patent Examiner Representatives*

April 13, 2007

To: Mr. Jon Dudas, Director, United States Patent and Trademark Office
Prof. Alain Pompidou, President, European Patent Office
Dr. Jürgen Schade, President, Deutsches Patent- und Markenamt
Mr. David Tobin, Commissioner of Patents, Registrar of Trademarks and Chief Executive Officer, Canadian Intellectual Property Office
Dr. Friedrich Rödler, President, Österreichisches Patentamt

Re: The Future of the Patent System

Dear Sirs,

History shows that a strong patent system is essential to the health and economic well-being of nations. Patents stimulate innovation and economic growth by motivating inventors to invent and to share their inventions with the world.

The importance of intellectual property is demonstrated by the increase of new patent applications during the last twenty years. Recently, however, many in the intellectual property community have come to realize that an increase in patent applications does not necessarily represent an increase in technological progress. They now recognize that poor-quality patents can become a hindrance to, rather than a stimulus of, innovation and economic growth. They understand that a strong patent system requires high patent standards and quality examination.

Patent offices worldwide continue to focus on their backlogs of applications and ways to increase examiner productivity. Unfortunately, in many patent offices, the pressures on examiners to produce and methods of allocating work have reduced the capacity of examiners to provide the quality of examination the peoples of the world deserve. Quality examination requires skilled, well-trained and motivated examiners, powerful and efficient search and examination tools and, most importantly, the time necessary for examiners to apply those skills, training and tools to the examination of patent applications. The pressure on productivity has greatly reduced the sense of job satisfaction of examiners, who feel unable to take the time to do the job justice. This has damaged the motivation of the examiners with concomitant impact on the operational effectiveness and the quality of output of Patent Offices.

Consequently, we, the undersigned representatives of patent examiners, join together in declaring that the combined pressures of higher productivity demands, increasingly complex patent applications and an ever-expanding body of relevant patent and non-patent literature have reached such a level that, unless serious measures are taken, meaningful protection of intellectual property throughout the world may, itself, become history.

We, therefore, strongly urge you, the leaders of major patent offices around the world, to:

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Vereinigung der technischen Mitglieder des Deutschen Patentamts - Prüfervereinigung - e.V., Deutsches Patent- und Markenamt (DPMA), Munich 80297, Germany
Gewerkschaftlicher Betriebsausschuss, Österreichisches Patentamt (ÖPA), Dresdnerstrasse 87, Vienna 1200, Austria

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Original: English/Englisch/Anglais

- Increase the quality of examination by providing patent examiners with more time to search and examine patent applications.
- Acknowledge the importance of protecting the intellectual property of inventors while simultaneously protecting the public domain by removing from any reporting, rating or incentive systems any bias with respect to granting or not granting patents.
- Guarantee the independence of the examination process so that it is governed solely by the legal framework.
- Ensure that examiners have the opportunity to maintain their legal and technological competence by providing adequate and continuing legal and technological training.
- Maintain staff skills with search, examination and administrative tools by providing regular update training.
- Recognize the considerable investment patent offices have in their staff by developing and maintaining collaborative rather than adversarial relations with employees and their representatives.
- Strengthen the world's patent systems by encouraging your respective governments to provide standards of patentability that reward innovation while discouraging undeserving patent applications so as to provide a strong presumption of validity for issued patents.

Respectfully,

Robert D. Budens, President
Patent Office Professional Association

Lawrence J. Oresky, Vice President
Patent Office Professional Association

Howard J. Locker, Secretary
Patent Office Professional Association

Randall P. Myers, Treasurer
Patent Office Professional Association

Pamela R. Schwartz, Assistant Secretary
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Hans Jasicek, Patentprüfer
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Examiner Not Guilty of Criminal Time Reporting Charges

A Virginia jury acquitted a former patent examiner of criminal larceny charges for allegedly collecting pay for work not done. The charges were based on discrepancies between the examiner's turnstile records and her time sheets. Following a two-and-a-half day trial, the jury returned the verdict after deliberating only 15 minutes. The jury foreman later apologized to the examiner, saying the jury was sorry she'd had to go through the ordeal.

The Department of Commerce Inspector General's Office (IG), with USPTO assistance, initiated the criminal investigation against the examiner, who holds a medical degree, a law degree, and who consistently produced at a level above 130 percent for the agency. For three years (2003-2005) the employee was awarded outstanding job evaluations with commendable quality by two supervisors.

Then she got a new supervisor and her work life took a decided turn for the worse. Difficulties with new supervisor Kevin Sirmons began the first biweek after he took over her art unit in October 2005. Sirmons was often away from his office during that time. As previous supervisors had authorized and without any indication to the contrary from Sirmons, the examiner had a senior primary examiner review and sign applications in Sirmons' absence and submitted them for production credit. Sirmons held them until "count Monday," the submission deadline day when, without a word to the examiner, he left them in her office with the primary examiner's approving signature crossed out. She, as a result, had abysmally low production that biweek. He told her he was upset she had gone to the primary examiner and that, on his watch, everything had to go through him.

The relationship was off to a rocky start. The examiner tried to get out but was not allowed to transfer to another art unit. Two months of continuous difficulties with Sirmons brought the examiner to a level of frustration she could not tolerate. She went on annual leave in December 2005 and subsequently resigned from the USPTO in January 2006.

In June 2006 IG Special Agent Rachel Ondrik paid a surprise visit to the examiner at home and asked about her time accounting. Ondrik indicated that there were a number of discrepancies between the examiner's badge-in, badge-out turnstile records and the time she reported on her time and attendance forms. Ondrik questioned other USPTO examiners in their offices about this case in ways that they described as witness intimidation. (See *POPA News*, Jan. 2007.) The Commonwealth of Virginia arrested the examiner in July 2006 on charges of obtaining money, and attempting to obtain money, under false pretenses. The trial was held in January 2007.

Ondrik testified at the trial that one of the examiner's earlier supervisors "had warned her that those turnstile records could be audited and her time sheets should match them." The examiner testified that she had never been so warned. Interestingly, USPTO Director of Security and Safety J. R. Garland testified at the trial that the turnstile design was not intended for time keeping purposes. (See following article.)

Trial evidence and testimony showed that the defendant had spent some mornings working from her parents' home because of difficulties with her pregnancy. She would then go into the agency in the late mornings or early afternoons to complete her work. She would claim the full number of hours she had worked, even though witnesses testified that she had not received prior approval to telework

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Turnstiles — For Security, Not Time Keeping

The Commonwealth of Virginia called USPTO Director of Security and Safety J. R. Garland as a prosecution witness during the trial of an examiner for alleged theft through improper time reporting. On cross examination, as noted in the following verbatim excerpt from the trial transcript, Mr. Garland explained the intent of the turnstile design versus its current time keeping use.

Q: How do you use this system for time and attendance records?
Garland: I don't know what you mean, sir. I don't use it for time and attendance records. I use it as a security system.
Q: It's a security system.
Garland: Yes, sir.
Q: It's not a time and attendance system?
Garland: No, sir. It just records times people come and go.
Q: And you are the person who is in charge of this system; correct? Were you part of the—were you involved in the implementation of the system at the new Carlyle complex?
Garland: Yes, sir.
Q: And it was never intended to be a time and attendance system, was it?
Mr. Casey [the prosecutor]: Judge, objection to relevance.
Mr. Schertler [the defense attorney questioning Garland]: That's what they're using it for.
The Court: Overruled.
Garland: I can't speak to everybody's intentions.
Q by Mr. Schertler: You're the man in charge of it.
Garland: I didn't intend on it for time and attendance. For security. Not for people's times.
Q: And you don't give this out every two weeks to the patent examiners and PTO employees, so that they can prepare their time and attendance sheets using the security system, do you?
Garland: No, sir. I do not.

Examiner Not Guilty of Criminal Time Reporting Charges

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(the hoteling program didn't exist at the time). During the times in question, the examiner maintained an outstanding production level in excess of 130 percent, the maximum percentage for which the USPTO pays examiners.

Other evidence at trial established that some of the turnstile records did not represent an accurate record of employees' time and attendance. Testimony showed that, on more than one occasion, the examiner was logged in and working on USPTO computers (something she could not have done remotely) while turnstile records indicated that she was not in the buildings. The evidence proved that the turnstile records, while perhaps useful for security purposes, could not be relied upon for employee attendance.

The jury recognized that, while the examiner may have violated an agency policy on telework, her actions were not criminal. The examiner had indeed given the USPTO every bit of work it paid her for plus more.

After the verdict, the jury foreman approached the defendant to say that he and the jury were sorry that the examiner and her family had to go through the trial.

International Examiners' Reps Appeal to Patent Offices

(*continued from page 4*)

- The role of incentives within organizations and the extent to which different kinds of incentives are appropriate for the EPO.

  The main findings of the report are:
- The standard of patentability is a key element in the system.
- Too high or too low of a standard will have adverse consequences on the system.
- There is an inherent relationship between quality and quantity and it is important to achieve an appropriate balance.
- A decline in quality has the potential for increasing workload. Applicants' perception of a lowered standard of patentability may induce a rise in the number of low-quality applications.
- Examiners are interdependent. Speeding up the work of one could slow down the work of others.
- There needs to be an appropriate balance between implicit incentives that function via performance appraisal and the esteem of peers and explicit incentives such as extra payments for higher production.

POPA's impression of the bottom line of this report is: It is in the best interest of the patent system to give examiners sufficient time to do a quality job.

A complete copy of the SUEPO study is available at http://idea.fr/doc/by/seabright/ report_epo.pdf.

Impasses Panel Supports POPA's Take on Negotiations Ground Rules

POPA-USPTO contract negotiations are about to begin since the Federal Service Impasses Panel (FSIP) recently determined not to decide a ground rules dispute between the two parties.

The USPTO had asked the panel to rule that, if the agency head disapproved parts of the resulting negotiated contract, those parts would be renegotiated while the rest of the contract was implemented. POPA objected to such a ground rules change because it would enable the USPTO to pick out and eliminate those parts more favorable to employees while maintaining and implementing those parts more favorable to the agency. In essence, the agency wanted a line-item veto over any contract provision it didn't like. This would negate the collective bargaining process.

Current federal labor law requires that, if a contract provision is disapproved on agency head review, the *entire agreement* does not go into effect, not just the disapproved provision. Then the parties need to go back to negotiations with the entire agreement open for discussion. This process insures that the final agreement represents a balance of give-and-take compromises for both the agency and employees.

POPA and the USPTO previously reached agreement on all other ground rules provisions, but remained at impasse over the agency's proposed process for agency head review. POPA argued to the FSIP that the agency's proposed ground rule would waive the union's statutory right to renegotiate the agreement — a right the FSIP did not have the authority to waive.

The FSIP found for POPA by refusing to take jurisdiction of the impasse. The remaining ground rules stand, putting contract negotiations on track for this summer.

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