POPA NEWS
Patent Office Professional Association
www.popa.org
PROFESSIONAL REPRESENTATION FOR PATENT PROFESSIONALS
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The State of the Union

Looking Back and Projecting What's Ahead

A new year, a new administration and some new POPA officials, but for USPTO patent professionals many things remain the same.

Much as the nation looks forward with optimism despite severe challenges, POPA holds hope for the future and works hard in the present.

Patent professionals ended a year that saw its share of positive workplace accomplishments by its professional association and agency. POPA and USPTO representatives worked together to usher in an improved Transit Subsidy Program, giving employees an added incentive to go green. The Non-Patents Telework and Part-time Agreements expanded telework opportunities in the non-patents areas, increased the availability of part-time schedules and expanded telework for part-time and hoteling employees. POPA and the USPTO collaborated on the First Action Interview Pilot program in TC 2100, which they hope will save examiners time, improve applicant satisfaction and forestall pre-exam interviews.

With persistent nudging from POPA, the USPTO requested and received an increase in the special pay rate for patent professionals, a move that became even more important as gas prices rose and the stock market fell.

The agency finally heeded POPA's concerns and, on its own, ended the much-reviled practice of electronically "badging out" to exit USPTO buildings. The move helped restore a certain sense of professionalism to USPTO employees.

National-level Achievements

During the campaign to change the patent reform legislation in Congress, which was damaging to the integrity of patent examination, POPA realized it could accomplish more by working with like-minded organizations. Your union worked with a coalition of business and labor groups to stimulate dialogue, redirect reform and focus the congressional lens on fixing some of the problems within the USPTO to improve the patent process. The result prevented the potentially harmful bill from passing and linked POPA to some powerful new allies.

After the presidential election, POPA discussed patent examination issues with members of President Obama's transition team. POPA officers met with James Halpert, an attorney and lobbyist (according to *Government Executive* magazine), Arti Rai, a law professor in patent law and the biopharmaceutical industry at Duke University, and Joyce Ward, director of Program Support and Intellectual Property for the National Inventor's Hall of Fame Foundation and a former USPTO trademark examiner. They listened to patent employees' concerns and said that Mr. Obama is very interested in developing the USPTO as an engine of economic recovery and in improving relations between management and employees. POPA looks forward to working with the new administration. (*cont. on page 2*)

IN MEMORIAM

Fayez Assaf

(See remembrance on page 2.)

Collective Bargaining Agreement Update

While contract negotiations between POPA and the USPTO continue, the parties have reached tentative agreement on many concepts important to POPA bargaining unit members

Because negotiations entered the mediation stage in March 2008 and are ongoing, none of the provisional agreements will be enacted until the full contract is finalized, except for the part-time and the telework programs for employees outside of the patents area.

When the negotiations process will conclude is difficult to predict. This is the first collective bargaining agreement in more than 20 years and the parties have many topics to cover.

During mediation, the negotiators are under the jurisdiction of a federal mediator who will decide when they have reached an impasse in negotiations. At that point, he

(*continued on page 2*)

State of the Union

(*continued from page 1*)

Looking Forward

As we move into a new era, POPA's priorities for the coming year include:

- Gain more time for examination
- Reach agreement with the USPTO on a term contract
- Abolish the one-hour-per-week onsite requirement for full-time teleworkers (hoteling examiners)
- Collaborate with Congress and the administration on patent reform and telework issues

POPA will continue to fight for your rights and work to make the USPTO a great place for all employees. Employees can further these goals by participating in POPA surveys and events and speaking your mind to USPTO management when you have the opportunity at town hall meetings and focus groups. And by joining POPA you support the workplace organization that supports you.

Collective Bargaining Agreement

(*continued from page 1*)

will direct them to the Federal Service Impasses Panel (FSIP) to resolve the impasse. The FSIP takes charge of any disputed sections. Like a court of law, the FSIP sets the timetable for actions.

After the FSIP renders a decision, POPA has to ratify the agreement and the USPTO has the opportunity to review it one more time to ensure that no provisions are contrary to law. The length of time to complete all of these steps is impossible to gauge, particularly because much of the schedule is out of the negotiators' control.

Areas of Tentative Agreement

Annual Leave

- Same as current provisions; employees will request annual leave as far in advance as necessary and reasonable; no 3-day-advance requirement.
- Approved leave can only be cancelled by the agency due to operational exigencies; same as current provisions.

Compensatory Time

- 400-hour yearly limit of regular comp time (includes credit hours earned).
- Part-time (prorated basis) and full-time employees eligible, same as current.
- Religious comp available when the employee states that his/her personal religious beliefs require his/her abstinence from work during certain periods of the workday or work week. Same as current.

Credit Hours

- Credit hours retained.

Non-Duty Time Technical Training

- Up to $10,000 for tuition per fiscal year for "mission-related" courses.
- Up to $300 per class for required course materials.
- Part-time employees may be eligible for a prorated amount.

Overtime

- Insofar as practicable, overtime will be on a voluntary basis. Same as current.

Part-Time Schedules

- This portion of the agreement in effect as of Oct 8, 2008. See *www.popa.org*; click on Useful Info, then Agreements, then Part-time. Includes limited part-time telework opportunity.

Sick Leave

- Same as current, medical certification may be required after a 3-day absence.

Telework

- Program for bargaining unit employees outside of the patents area was implemented on Oct. 8, 2008. See *www.popa.org;* click on Useful Info, then Agreements, then Telework Program B.
- Program for patents area includes: Full Time Telework (similar to current hoteling) and Limited Telework (up to 24 hours in 3 days, with not more than 2 days of telework in the same week. Once per bi-week, employees may work at Carlyle and at the alternate work site on the same day).

In Memoriam

Fayez Assaf

POPA mourns the untimely passing of Fayez Assaf, an examiner in Art Unit 2872 and one of POPA's two appointees to the Search and Information Resources Administration (SIRA) Patent File Wrapper project. The cause of his death is believed to be from an adverse drug interaction.

Fayez was an easy-going colleague who worked diligently to communicate POPA's input to the SIRA development teams. He loved life, his work, and helping the people he worked with at the USPTO.

Fayez was born in Damascus, Syria, on April 2, 1961. In 1981, he moved to the United States to attend university. He received a BS in Electrical Engineering from Northeastern University in 1986, a BS in Physics from Central Connecticut State University in 1993 and a MS in Physics from New Mexico State University in 1998. Following graduation, he came to work at the USPTO in February 1999.

POPA extends sympathy to Fayez's family and friends. He will be missed by his USPTO coworkers.

POPA Election Results

POPA members voted in November 2008 for their representative delegates and officers and on amendments to two POPA bylaws.

The membership voted to change the election of officers and area delegates from every two years in even-numbered years to every three years. They also voted to allow the Executive Committee to appoint an assistant secretary in the event that the elected assistant secretary is removed from office, resigns or is otherwise unable to perform the duties of the office. The full text of the new sections of the POPA Constitution are at *www.popa.org*.

Why I Became a POPA Delegate

From the time I began my USPTO employment in late 1982, I read the *POPA News* with interest, but had a hard time believing that some of the bad things set forth therein were really happening to patent examiners at the same agency that had hired me and was taking good care of me. I received lots of training by very fine primary examiners, and my supervisor had the good sense to allow primary examiners in the art—who knew the art and who liked to work with people—to train me and the other newbies. With this good and consistent training, I quickly came up to speed as an examiner, received regular promotions and awards, worked lots of paid overtime, and passed the full signatory program.

Shortly after passing the sig program, however, the "bad things" hit closer to home. A fellow member of my art unit failed the full sig program based upon specious error calls by the same manager who had passed me. I say specious because I was asked to review these errors by POPA because I worked in the same art. The supervisor and director were unmoved by cogent arguments and facts. I could not fathom why these managers, who had been so fair with me, were being so unfair with my coworker, and explained this to Don Walsh, our area POPA delegate at that time. Don (who later became a supervisor himself), took me to meet POPA President Ron Stern. I agreed to fill a vacant Chemical area delegate position, in part to help on the grievance POPA filed regarding my coworker's sig denial, and also to see just what went on in POPA. I'd see for myself if the things that are printed in the *POPA News* represent reality.

I found that indeed the *POPA News* conveys reality 100 percent of the time. This has been the case through the 16 years I've been a POPA delegate and officer.

I encourage anyone who possesses facts that counter information reported in *POPA News* to come forward with specifics to any POPA representative or officer. The newsletter will address inaccuracies to ensure that patent professionals receive the verified information they need to progress in their USPTO careers.

—Howard Locker, POPA Vice President

EXECUTIVE COMMITTEE ROSTER

	Telephone	Art Unit	Office
Union Office		——	RND-1D61
OFFICERS			
President			
Robert D. Budens	571-272-0897	1648	REM-3A35
Vice President			
Howard J. Locker	571-272-0980	1661	REM-2C81
Secretary			
Dr. Kathleen Duda	571-272-1383	1795	REM-9A65
Assistant Secretary			
Pamela R. Schwartz	571-272-1528	1794	REM-10C75
Treasurer			
Randall P. Myers	571-272-7526	2614	KNOX-6B81
CHEMICAL AREA DELEGATES			
Dr. Patricia Duffy	571-272-0855	1645	REM-3B0
Dr. G. R. Ewoldt	571-272-0843	1644	REM-3C83
Jennifer Graser	571-272-0858	1645	*hoteling*
Adrienne Johnstone	571-272-1218	1791	REM-7B19
Amy Lewis	571-272-9032	1614	REM -3D30
Ileana Popa	571-272-5546	1633	REM-2C83
Dr. Christine Saoud	571-272-0891	1647	REM-4E81
Geraldina Visconti	571-272-1334	1795	*hoteling*
ELECTRICAL AREA DELEGATES			
Vincent Boccio	571-272-7373	2169	RND-10D39
Jasmine Clark	571-272-1726	2815	JEF-6D39
Azizul Choudhury	571-272-3909	2445	RND-10D69
Phylesha L. Dabney	571-272-7494	2614	KNOX-6D68
Albert Gagliardi	571-272-2436	3992	JEF-9A31
Kim Lockett	571-272-2067	2837	hoteling
Adnan Mirza	571-272-3885	2445	RND-4A89
Dionne Pendleton	571-272-7497	2627	KNOX-8B15
B. James Peikari	571-272-4185	3992	hoteling
Scott J. Sugarman	571-272-2340	2873	JEF-3D11
Jeff Swearingen	571-272-3921	2445	RND-4A69
Julie Anne Watko	571-272-7597	2627	KNOX-8A75
Howard Weiss	571-272-1720	2814	JEF-5A15
MECHANICAL AREA & BUSINESS METHODS DELEGATES			
Ella Colbert	571-272-6741	3696	KNOX-4A21
David Fenstermacher	571-272-7102	3656	KNOX-3B07
Vinh Luong	571-272-7109	3656	KNOX-3C03
Craig Price	571-272-2712	3753	RND-10A75
David Reip	571-272-4702	3993	RND-6B81
David Shay	571-272-4773	3769	RND-7A75
DESIGNS AND OTHERS AREAS DELEGATES			
George Kirschbaum	571-272-4232	2913	REM-5A70
Melanie H. Tung	571-272-2613	2911	REM-5B87

POPA Annual Awards

POPA members volunteer their time to serve their fellow employees through association activity. With much gratitude for their outstanding service, POPA recognized the following individuals at the 2008 Annual Meeting held December 4, 2008:

Larry Oresky (right) accepts one of his awards from POPA President Robert Budens

Lawrence J. Oresky – Defender of the Patent System Award and the Ronald J. Stern Outstanding Service Award. POPA's highest honor, the Defender of the Patent System Award, is given with appreciation for invaluable service not only to POPA, but in defense and promotion of the U.S. patent system. Larry Oresky, who retired at the end of 2008, served on the POPA Executive Committee since 1971 and as POPA Vice President and Director of Grievances for more than 25 years. He devoted his entire career to representing his fellow employees, negotiating for their rights and benefits and upholding the integrity and professionalism of the U.S. patent system.

In addition, Larry was also recognized with the Ronald J. Stern Outstanding Service Award for his many achievements in successfully representing his fellow professionals in grievances, arbitrations and negotiations.

Vinh Luong – Outstanding Service Award. Vinh Luong has been at the forefront of POPA's efforts to fight discrimination at the USPTO by using his technical and legal training and expertise in representing his fellow patent professionals in equal employment opportunity and reasonable accommodation matters.

Vinh Luong (right) is honored with the Outstanding Service Award by POPA President Robert Budens.

In addition, Vinh was also honored by David Fox, representing Lambda PTO, for his work in defending USPTO employees against discrimination based on sexual orientation and gender identity. POPA is honored and grateful to see another USPTO organization recognize the efforts of one of our POPA representatives.

Lambda PTO representative David Fox (right) presented an award to Vinh Luong for his work on the organization's behalf.

Ella Colbert – Distinguished Service Award. Ella Colbert, who works closely with Vinh Luong, provided her technical and legal expertise to represent her fellow patent professionals in equal employment opportunity and reasonable accommodation matters.

POPA Annual Awards

(*continued from page 4*)

Ella Colbert receives her Distinguished Service Award from POPA President Robert Budens

Don Walsh – Voluntary Service Award. Due to Don Walsh's enthusiasm, dedication and volunteer spirit, the 2008 POPA elections proceeded smoothly and professionally.

POPA extends its heartfelt thanks and congratulations to all its 2008 award recipients.

Don Walsh (right) accepts his Voluntary Service Award from POPA President Robert Budens.

Got Game?

Do you know what it takes to get partial or full signatory authority? If you do, then you've definitely got game. But I didn't.

I knew that I had to exceed the quantity standard required by my General Schedule level and the quality standard required by my technology center. To prepare for the program, I read over and over again the signatory program explanation in the USPTO memorandum posted on the POPA Web site at *www.popa.org/pdf/misc/sig-main.pdf.* After a third reading, I understood the general process, including the minimum examining time, the number of cases being reviewed, and how work flow figures into the process. I thought, "I've got game." Was I ever wrong!

The memo only details the general outline of the process. A whole bunch of other rules also apply. It's like buying a car or signing up for a loan without reading the fine print. The fine print is in your performance appraisal plan (PAP), which outlines how errors are classified and categorized. The partial signatory program has two classes of errors, Patent Examining Functions (PEF) and Action Taking. The full signatory program has three classes of errors: Patent Examining Functions, Action Taking and Patentabilty Determination.

Then there's categorization. Did you know that PEF errors are also categorized into two categories: those detailed in your PAP as items 1(b), 2-7 and 11; and items 1(a), 8-10 and 12-14. Categorization is the allocation of errors under the proper group of patent examination functions.

"How did I learn about categorization? From POPA."

I had no clue about categorization. I mentioned the concept to some supervisors and they also were unaware of it. Others admitted that they'd heard about it, but were unaware of its use.

How did I learn about categorization? From POPA.

POPA knows the rules of the game. I reached out to POPA for direction and guidance when I didn't know where else to turn. My POPA representative immediately went to bat for me with my supervisor and director and established the case for my passing the program.

After such an educational process, I can now say I've got game. I know I can rely on POPA for guidance and direction and I encourage you to do the same. When you need a consult, visit your POPA representative for a fresh perspective. And join POPA to give your association the resources it needs to continue to protect our rights.

—Primary Examiner, name withheld on request

POPA Budget 2008-2009

The following report includes 2008 Association income and expenditures through December 31, 2008 and the 2009 Association budget approved by the Executive Committee.

	2008 Actual	2009 Budget
INCOME		
Dues	$ 215,050.00	$ 221,000.00
Interest	$ 3,406.50	$ 3,500.00
Other	$ 4,050.00	
Total Income	**$ 222,506.50**	**$ 224,500.00**
EXPENDITURES		
Litigation, Lobbying	$ 145,923.48	$ 140,000.00
Newsletter	$ 29,509.81	$ 33,000.00
National Activities	$ 1,174.00	$ 2,000.00
Training & Conferences	$ 5,584.30	$ 8,000.00
Legal Information Resources	$ 7,272.50	$ 9,000.00
Elections*	$ 3,531.71	$ 0
Administrative	$ 12,619.66	$ 16,600.00
Membership Services	$ 3,260.20	$ 5,000.00
Membership Meetings	$ 1,743.96	$ 3,000.00
Capital Expenditures	$ 0	$ 6,000.00
Total Expenditures	**$ 210,619.67**	**$ 222,600.00**
Net to Reserve	**$ 11,886.83**	**$ 1,900.00**

* Effective November 2008, Election expenses are incurred every three 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, insurance, miscellaneous and bank fees.

Membership Services: Membership incentives and participation in USPTO Community Day.

FERS Sick Leave Equity Act Introduced

Employees in the Federal Employees' Retirement System (FERS) could receive credit for unused sick leave under a bill introduced in the House in early February.

The FERS Sick Leave Equity Act (HR 958), introduced by Virginia Reps. Jim Moran (D) and Frank Wolf (R), would provide federal employees under FERS a sick leave benefit equal to that of employees under the Civil Service Retirement System (CSRS). The benefit adds any unused sick leave to the number of years an employee has worked for the purposes of determining their annuity during retirement.

"FERS 'use-it or lose-it' system for sick leave hampers productivity and increases training costs," said Rep. Moran. Rep. Wolf agreed. "This bipartisan legislation will correct a longstanding inequity between the two federal retirement programs," Wolf said. "It also will increase efficiency by cutting down on the use of sick leave."

FERS does not include such a sick leave benefit. The Office of Personnel Management (OPM) estimates that this policy costs taxpayers $68 million per year because many employees increase their use of sick leave as their retirement nears.

According to Rep. Moran, Congress in 1969 added a sick leave benefit for CSRS employees after the Civil Service Commission—the forerunner to OPM—estimated that half of all retiring federal employees had zero sick leave; reports showed that retiring employees prior to 1969 used an average of 40 sick leave days in their last year of employment.

A Congressional Research Service report from August 2007 found that sick leave balances are lower for FERS employees than CSRS employees.

In a recent survey of FERS and CSRS employees, according to Rep. Moran, 85 percent of CSRS employees said they conserved as much sick leave as possible, while 75 percent of FERS employees said they would use as much sick leave as possible during their last years.

JOIN POPA

Patent Office Professional Association

Letters from readers are welcome. Address to:
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