

Memorandum of Understanding between the
U.S. Patent and Trademark Office (USPTO) and
The Patent Office Professional Association (POPA)
Regarding Interview Policy Guidelines
June 24, 2013

Preamble:

This Memorandum of Understanding (MOU) was reached through predecisional discussion between the parties. As a result of those discussions, the Agency has determined that it will implement the following Interview Policy Guidelines, attached hereto as Appendix A, on the effective date of the MOU.

1. Effective Date

Once signed by the parties, this Memorandum of Understanding between the USPTO and POPA (MOU) shall become effective at the earlier of Agency Head approval, or 31 days after the date it is signed by the last signatory. If the Agency Head approves or disapproves this MOU, POPA shall be notified of the date of that approval or disapproval.

2. Providing Information and Data to POPA

The USPTO will provide POPA with the information and data summaries generated for use in evaluating the implementation of the Guidelines. The information and data shall be provided promptly so that both parties may analyze the data contemporaneously, and POPA can participate in the evaluation. Detailed information and data will be provided upon request.

3. Ongoing Discussions and Changes to the Guidelines

The parties shall meet annually, or more often at the request of either party, to discuss issues arising from the Guidelines and their implementation, to review any training or implementation materials that have been issued by management, and to discuss potential changes (if any) to the Guidelines. The parties agree to work together to jointly address issues raised by either party with a goal of reaching a resolution to the issues that is acceptable to both parties within a reasonable timeframe. If either party believes that changes to the Guidelines would be useful, the parties will make a good-faith effort to expeditiously resolve any issues relative to the proposed changes. Agreed-upon changes shall be implemented by the parties.

If agreement cannot be reached informally, management may determine to move forward with a change and 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, and will begin with Article 14, Section 3C (POPA's opportunity to meet 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 the proposed changes earlier.

4. Dissemination of Information on the Guidelines

Management shall send information on the Guidelines via e-mail to all examiners approximately one week prior to its implementation. This information shall consist of:

- the Guidelines, attached hereto as Appendix A; and
- FAQs, attached hereto as Appendix B.

5. Reopener

After the one-year anniversary of this MOU's effective date, either party may reopen. Bargaining will be in accordance with the parties' mid-term bargaining ground rules as set forth in the parties' collective bargaining agreement.

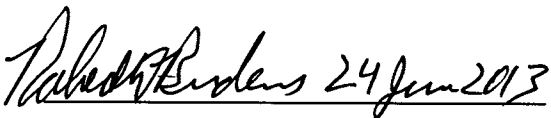
6. Bargaining Obligation

The Union acknowledges that the Agency's obligation to negotiate over the implementation of changes set forth in this MOU and its appendices has been fully satisfied.

Signatures

FOR POPA:

FOR THE USPTO:

 24 Jun 2013

 6/24/13

Robert D. Budens Date
President

Andrew Faile Date
Deputy Commissioner for Patent Operations

Appendix A:

Interview Policy Guidelines

These guidelines clarify interview policy regarding appropriate methods for conducting an interview. The general policy for determining when it is appropriate to grant interviews has not changed. See MPEP 713 for guidance on when it is appropriate to grant an interview.

As the Agency moves towards a nationwide workforce, new tools and methods are available to conduct interviews. The physical location of either party should not limit the USPTO's ability to hold interviews.

Interviews are an effective tool to resolve issues and shorten prosecution. An interview should be granted when the nature of the case is such that the interview serves to develop and clarify outstanding issues in an application and leads to a mutual understanding between the examiner and the applicant, and thereby advance the prosecution of the application.

This policy should be followed once it has been determined that an interview should be granted.

A. Interview Guidelines

1. Examiners may request an agenda to facilitate a focused discussion of the issues. The mere absence of an agenda is not a reason to deny an interview request.
2. USPTO employees should be available to have interviews in order to engage stakeholders, and advance prosecution. Interviews should be held during normal business hours, Monday – Friday 8:30 AM – 5:00 PM. Telephonic and video conference interviews may be held outside these hours if agreed upon by all participants. Applicants and examiners may have to adjust their work schedule in order to find a mutually agreeable time to schedule an interview.
3. In some situations, a face-to-face interview is the most beneficial method of interaction between the examiner and the applicant. A request for a face-to-face interview will normally be granted. Other times, a telephonic interview provides the appropriate level of interaction.
4. A face-to-face interview may be accomplished via video conferencing or in-person.
 - a. All interviews held via video conference are to be originated or “hosted” by the USPTO. In other words, examiners are not to join a video conference hosted by the applicant. The examiner assigned to the subject application will coordinate the video conference using USPTO supplied collaboration tools.
 - b. All in-person interviews must be held on a USPTO campus.

5. Many applicants are increasingly interested in having interviews via video conferencing. When an applicant requests a video conference with an examiner, the request should be granted. When applicants request an in-person interview but there is not an opportunity for both parties to be on the same USPTO campus at a mutually agreed upon time, a video conference should be offered. Accordingly all examiners, regardless of worksite location, should offer and hold interviews via video conferencing when appropriate.
6. Resources will be available to support an examiner's use of video conferencing for interviews including training, on-line reference guides, set-up assistance, examiner interview rooms, public interview rooms, ITRP resources, and TC POCs.

B. Employees normally working remotely

1. Examiners working remotely may hold interviews either telephonically or via video conferencing.
2. Examiners who work remotely and have a duty station reporting requirement or live within local commuting distance (50 miles) of the Alexandria campus or a regional satellite office should arrange to hold an interview when on campus if the timing can be mutually agreed upon with the applicant.
3. In special situations the examiner will be required to come to campus for an in-person interview. The decision on special situations will be made at the TC Director level or higher as to whether the examiner of record or another USPTO representative will be on campus for the interview. (see FAQs)

C. Employees normally on campus

1. Examiners on campus may hold interviews in-person, telephonically, or via video conference. Examiners may receive requests from an applicant for an interview using video conferencing when applicant cannot travel to a USPTO campus. Such requests should normally be granted.
2. Telework does not prevent examiners from conducting interviews via video conference or telephonically from their approved alternate worksite.
3. If the applicant requests an interview via video conference, the on-campus examiner will coordinate the video conference.

Glossary:

USPTO campus – Alexandria Headquarters or any regional satellite office

Regional satellite office – USPTOs offices in Detroit, Denver (future), Dallas (future) and Silicon Valley (future)

Face-to-face Interview – An interview where the two parties can see and interact with each other. This can be with the two parties in the same room or via video conference.

In-person Interview – An interview with the two parties in the same room.

Alternate Worksite - An alternate worksite is a worksite other than a USPTO campus. It is an approved designated workspace.

Official Duty Station - The “official duty station” of an employee of the USPTO is the city, town and/or county, and state in which the individual employee works.

Appendix B:

Frequently Asked Questions (FAQs)

1. What is a video conference?

A video conference is a meeting, usually web-based, using a video camera and a USPTO supplied collaboration tool such as WebEx to visually interact and collaborate with people anywhere in real time. All video conferences for interviews must be hosted by USPTO personnel from their duty station or an approved alternate worksite.

2. What are the examiner interview rooms and where are they located?

Examiner interview rooms are on the 1st floor of the Jefferson, Remsen, Knox and Randolph buildings in the conference center and are clearly marked as Examiner Interview Rooms. These rooms are available to all examiners in order to conduct interviews when the examiner's office is not suitable for the interview (e.g. shared office, large group). Each regional satellite office has a team room that can be reserved for the same purpose.

3. How do I reserve an examiner interview room at the Alexandria campus?

These rooms can be reserved through an online reservation system that can be found on the Examiner Interview Resource Website.

4. What is the public interview room and where are they located?

Each USPTO campus has at least one public interview room. The public interview room is designed for the applicant to participate in a video conference when they are on campus and the examiner is working remotely. The Alexandria public interview room is located in Jefferson 1st floor (1D51).

5. How do I reserve a public interview room?

These rooms must be reserved for the applicant by the examiner through an online reservation system that can be found on the Examiner Interview Resource Website.

6. Am I required to grant an interview?

Interviews are encouraged as an effective method of improving understanding between the applicant and the examiner. However, granting an interview is not required in every instance. See MPEP 713.

7. Is an interview agenda required?

While an agenda from the applicant is not required to grant an interview, many examiners have found that requesting an agenda helps ensure a productive interview. The examiner can ask for information about which references, claims or applied rejections the attorney wishes to discuss, as well as any proposed amendments or evidence the attorney will be providing.

8. What do I need to do to coordinate a video conference?

Coordinating a video conference entails four main tasks.

- 1) Agreeing upon a date and time with all parties involved. This will include the examiner and the applicant if the examiner has negotiation authority. If the examiner does not have negotiation authority, the Primary examiner or SPE who will attend the interview should also be included.
- 2) Determining which parties will be on campus and which will be off campus. This allows the examiner to determine if the video conference can be hosted from the examiner's office or if the examiner needs to reserve an interview room.
- 3) Setting up the video conference through USPTO collaboration tools, such as WebEx, and sending out invitations through Outlook.
- 4) Initiating the video conference from the USPTO network.

9. Who do I contact if I need help setting up a video conference?

Resources are available on the Examiner Interview Resource webpage to assist in setting up a video conference, including Quick Reference Guides, ITRPs and TC POCs.

10. Who are the TC POCs?

A list of the interview points of contacts can be found on the Examiner Interview Resource Website under "Contact Us".

11. I am a hotelier, am I required to come to a USPTO campus for an interview?

Interviews should be held in the most appropriate manner. If you are working remotely and have a duty station reporting requirement or live within local commuting distance from USPTO campus, then in-person interviews should be arranged if the timing can be mutually agreed upon with the applicant. For special situations, examiners may be required to come to a USPTO campus.

12. What would be a "special situation" requiring a hotelier to come on campus for interview?

Examples of special situations include: demonstrations that cannot be adequately presented via video conference or inventors present on campus.

13. I am a hoteling examiner with an official duty station within 50 miles of a regional satellite office; can I use the regional satellite office for interviews?

Yes, if space is available. You must reserve a room in advance. If video conferencing is needed, the public interview room should be reserved using the online reservation system that can be found on the Examiner Interview Resource Website. If an in person interview is to be held, as an alternative to the public interview room, an available hoteling room or team room can be reserved. To reserve these rooms contact the regional satellite office Interview POC. Other time for travel to the regional satellite office is not available.

14. I will be on vacation near a regional satellite office and I would like to hold an interview at that office while I am there, can I do this?
No. Use of a regional satellite office for interviews or work is limited to employees who have an official duty station at or within 50 miles of the regional satellite office – enjoy your vacation!
15. Can I hold an interview at applicant's office?
No. All in-person interviews must be held on a USPTO campus.
16. Can I hold an in-person interview from my home/alternate worksite?
No. All in-person interviews must be held on a USPTO campus.
17. Is authorization from the applicant needed to conduct a video conference?
Yes, communications via the Internet, such as e-mail or video conference, are at the discretion of the applicant. Written authorization from the applicant should be obtained prior to setting up a video conference. See MPEP 502.03.
18. Can I hold a video conference if the applicant does not provide written authorization for internet communications?
No. Without the written authorization from the applicant, the interview options would be limited to telephonic or in-person as outlined in Sections B and C above.