

STATEMENT OF
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BEFORE THE

SUBCOMMITTEE ON GOVERNMENT OPERATIONS
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
U.S. House of Representatives

Oversight Hearing on USPTO Employee Time and Attendance

DECEMBER 7, 2016

Chairman Meadows, Ranking Member Connolly and Members of the Subcommittee:

Thank you for this opportunity to discuss the United States Patent and Trademark Office's (USPTO) management of employees' time and attendance.

I am proud of the work done by our nearly 13,000 employees – including more than 8,300 patent examiners – to help our nation's innovators secure intellectual property rights. The overwhelming majority of these employees are hard-working, highly- educated and highly-skilled professionals who perform their jobs with the utmost integrity and dedication.

We take seriously any allegation of abuse in our workplace. Any abuse of time and attendance by an employee is unfair to our stakeholders who rely on our Agency and to other employees who abide by the rules. It is unacceptable and will not be tolerated within the USPTO.

In recent years, we made workforce management a critical focus and have invested significant time and effort on improving our overall management for all employees including teleworking employees and those stationed at our physical facilities. We have taken a number of concrete steps – including requiring new training for employees and supervisors, updating policies, adding controls and building tools

for supervisors – to enable them to engage and manage their employees more effectively. Today at the USPTO, supervisors receive extensive training and have a variety of tools in place to help monitor employees’ attendance and work levels, regardless of where the employees are working.

Some of our recent efforts include:

- Guidance to all patent supervisors to regularly utilize their IT dashboard tool to review employee-specific data to monitor their examiners’ production and timeliness performance, which can show early signs of changes in performance and potential time and attendance issues;
- Focused training for all supervisors and employees on USPTO time and attendance policies;
- Implementation of a policy requiring all USPTO supervisors and full-time teleworkers to remain logged on to the USPTO’s IT system during working hours; to use collaboration tools including instant messaging and presence indicator; and to provide advance notice of intended work schedules to supervisors;
- Guidance to all patent and trademark supervisors to specifically monitor indicators of potential time and attendance issues, such as responsiveness to supervisory communications; inconsistent workload activity (*e.g.*, claiming 80 hours of examining time in a bi-week, without documentation of corresponding work); and customer complaints;
- Issuance of a policy requiring poor performing employees and employees with time and attendance related misconduct to provide their supervisors with more specific work schedule information;
- Issuance of an agency-wide refresher on time and attendance obligations and a policy on expanded use of networking and collaboration tools;
- Updating the *Overtime Policy for Patent Examiners* emphasizing that exceeding production goals does not excuse employee from actually working claimed hours; this updated policy prohibits overtime for examiners serving suspension in given pay period and states that examiners under investigation or proposal for disciplinary or adverse action for time and

attendance, work schedule, or production credit abuse may be prohibited from working overtime;

- Launch of a program to improve supervisory mentoring of patent examiners with low or inconsistent production levels; and
- Recent recertification of agreements with all our teleworking employees.

We appreciate the work of the Office of Inspector General (OIG) in preparing the August 2016 *Analysis of Patent Examiners' Time and Attendance*. The findings and recommendations in the report serve as a valuable resource as we further enhance the extensive measures we have already taken that focus on time and attendance compliance among USPTO employees.

The USPTO is committed to implementing additional improvements as necessary in response to the report. Because the OIG identified overall trends and did not examine employees' individual cases, our team has worked to rigorously analyze the data in detail to better identify the nature of the unsupported hours. This refined analysis is helping us make tailored improvements to our overall workforce management.

While the USPTO is certainly unique among Federal agencies in its ability to quantify the productivity of a majority of its employees, striking the right balance between management tools and employee productivity is a challenge faced by all employers – both public and private sector – and something that we strive to achieve in an effort to ensure the efficiency and effectiveness of our Agency in order to better promote American innovation. We have and will continue to work toward ensuring proper and accurate accounting of all time and attendance. Any hour of time claimed and not worked is unacceptable.

In closing, I want to underscore our continuing commitment to detect and address all cases of abuse and hold any employees who commit that abuse accountable, while also strengthening the efficiency and effectiveness of our overall management and operations. As we continue to support our nation's innovators, we know that we owe nothing less to our hard working and dedicated employees, to our stakeholders and to the public we serve.

Thank you.