

In resolution of all bargaining over the reassignment of the patent classifiers to the classifier/examiner hybrid position as indicated in the July 10, 2002 notice to Ronald J. Stern, President, POPA, the parties agree as follows:

### **LEARNING CURVE**

1. For that Classifier-Examiner-Hybrid who has an average productivity over thirteen consecutive pay periods of half way to the next higher learning-curve-grade and who has demonstrated proficiency in quality and other critical elements at the next higher learning-curve-grade may advance to the next learning curve grade level. Management will document advancement in writing. The Classifier-Examiner-Hybrid may elect to continue on the current learning-curve-grade-level until its normal expiration if that Classifier-Examiner-Hybrid believes he or she needs the entire time of the learning curve.

### **DOCKET**

2. Within one week of the assignment of a Classifier-Examiner-Hybrid, that employee will be assigned a docket. Cases within that docket will be assigned in a fair and equitable manner.

### **TRAINING**

3. Classifiers in the GS-1223 series, as of September 30, 2002 will be given training equivalent to that given to newly hired patent examiners except that PEIT (or equivalent) courses may be modified to take into account the fact that the classifiers have some knowledge of the parts of a patent application and how to classify patent applications.

4. Those employees currently on assignment to SIRA shall be trained by an appropriate SPC, or equivalent, for post classification work and reclassification project work. The training shall include training in the principles set forth in DUPACS and practices of post classifiers.

5. All other training opportunities normally available to patent examiners will be available to the Classifier-Examiner-Hybrids. Classifier-Examiner-Hybrids will be treated as if they are patent examiners for purposes of selection for limited training slots. Selection shall be fair and equitable.

### FIRST CONSIDERATION

6. Affected employees (excluding those who have elected to retain Full Signatory Authority) will have first consideration for certain positions at the USPTO for a period of two years from the effective date of this agreement. All GS-1223 patent classifiers as of September 30, 2002, will be considered before other internal applicants, except those specifically covered under the Code of Federal Regulations, for all competitive service positions in the GS-12XX series for which they apply. These applicants must be qualified and be applying for vacancies at their current or lower graded positions. This specifically excludes the 1222 series. To be given first consideration, employees must indicate in their application material that they are entitled to such consideration. The areas of consideration for these vacancies will initially be USPTO employees only. This provision also excludes Patent Examiner positions for which there may be multiple selections.

### AWARDS

7. Section 1A of the Trial Gainsharing Program Agreement, signed on October 6, 1988, is modified as follows:

[This is a new sub-section] For employees in the Classifier-Examiner-Hybrid position:

Achievement of Examiner Goal	Performance Rated Examiner Quality Elements	Amount of Current Salary
110%	At least Fully Successful	a) 1% * (examining + examining related hours)/1400.  b) Maximum amount is 1%.
110%	At least Commendable	a) 2% * (examining + examining related hours)/1400  b) Maximum amount is

		2%.
120%	At least Fully Successful	a) 3% * (examining + examining related hours)/1400  b) Maximum amount is 3%.
120%	At least Commendable	a) 4% * (examining + examining related hours)/1400  b) Maximum amount is 4%.
130%	At least Fully Successful	a) 5% * (examining + examining related hours)/1400  b) Maximum amount is 5%.
130%	At least Commendable	a) 6% * (examining + examining related hours)/1400  b) Maximum amount is 6%.

Achievement of Classifier Goal	All Other Classifier Performance Elements	Amount of Current Salary
110%	At least Fully Successful	a) 1% * (classifying + classifying related hours)/1400  b) (Classifying + classifying related hours) cannot exceed 1400 – (examining + examining related hours)

		c) Maximum amount is 1%.
120%	At least Fully Successful	<p>a) 3% * (classifying + classifying related hours)/1400</p> <p>b) (Classifying + classifying related hours) cannot exceed 1400 – (examining + examining related hours)</p> <p>c) Maximum amount is 3%.</p>
130%	At least Fully Successful	<p>a) 5% * (classifying + classifying related hours)/1400</p> <p>b) (Classifying + classifying related hours) cannot exceed 1400 – (examining + examining related hours)</p> <p>c) Maximum amount is 5%.</p>

The classification components of the Hybrid's production shall be reduced to a single percentage achievement by creating a weighted average of the percent achievement for all production tasks with the weighting factor being the time spent on each task. Solely for purposes of the award for the Hybrid's position, time spent as a classifier or performing classification related activities is not examining related for examiner award purposes, and time spent examining or performing examining related work will not count as classifier award hours. All other award performance standards, as stated in the Gainsharing Agreement itself, are maintained. This includes the impact of an effective QSI on achievement of goal. Examiner productivity is credited at (N+D)/2.

8. Section 1B of the Trial Gainsharing Program Agreement, signed on October 6, 1988, is modified as follows:

Classifier-Examiner-Hybrids are eligible for the Pendency Reduction award. Solely for purposes of the award for the Hybrid's position, time spent as a classifier or performing classification related activities is not examining related for pendency reduction award purposes. All other award performance standards, as stated in the Gainsharing Agreement itself, are maintained.

9. Section 2-1A of the Agreement on Awards, signed on June 27, 1983, is modified as follows:


1(c) *[This is a new sub-section]* For employees in the Classifier-Examiner-Hybrid positions:

Achievement of Examiner Goal	Performance Rated Examiner Quality Elements	Amount of Current Salary
110%	At least Fully Successful	a) 3% * (examining + examining related hours)/1400.  b) Maximum amount is 3%.

Achievement of Classifier Goal	All Other Classifier Performance Elements	Amount of Current Salary
110%	At least Fully Successful	a) 3% * (classifying + classifying related hours)/1400  b) (Classifying + classifying related hours) cannot exceed 1400 – (examining + examining related hours)  c) Maximum amount is 3%.

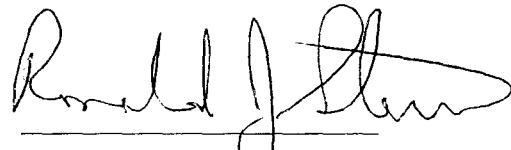
The classification components of the Hybrid's production shall be reduced to a single percentage achievement by creating a weighted average of the percent achievement for all production tasks with the weighting factor being the time spent on each task. Solely for purposes of the award for the Hybrid's position, time spent as a classifier or performing classification related activities is not examining related for examiner award purposes, and time spent examining or performing examining related work will not count as classifier award hours. All other award performance standards, as stated in the Agreement on Awards, are maintained. This includes the impact of an effective QSI on achievement of goal. Examiner productivity is credited at  $(N+D)/2$ .

For the USPTO:

  
10-7-02

Nicholas P. Godici  
Commissioner for Patents

For POPA:

  
10-7-02

Ronald J. Stern  
President, POPA

Date: October 7, 2002

To: Ronald J. Stern  
President, POPA

From: Office of the Deputy Commissioner for Patent Operations

Subject: Reassignment of Patent Classifiers - Management Document

Management has determined that the following adjustments to performance standards in the management rights area will apply to the reassignment of Patent Classifiers effective with the resolution of all bargaining between the parties in accordance with the agreement signed on October 7, 2002:

#### LEARNING CURVE

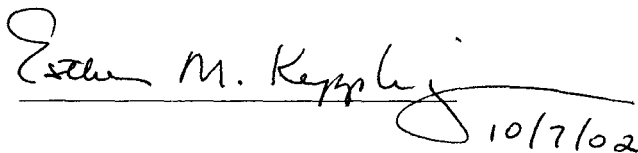
1. Each Classifier-Examiner-Hybrid with over one year examining experience will operate for a maximum of three equivalent quarters at a GS-9, and a maximum of four equivalent quarters at each higher grade. All other Classifier-Examiner-Hybrids will operate for a maximum of two equivalent quarters at a GS-7, and a maximum of four equivalent quarters at each higher grade. This learning curve will apply for all purposes including production goals, quality, interaction between the supervisor and the employee, and interaction between the employee and attorneys, agents and pro se applicants prosecuting patent applications. The highest grade of the learning curve shall be no higher than the hybrid's grade.

Classifier-Examiner-Hybrids, who do not subsequently earn signatory authority, will not be held to a higher production goal than is commensurate with the reporting scheme for quality purposes, except that the highest quality performance element(s) will be at the GS-12 level, while the examining production goal will move to the GS-13 level after four equivalent quarters at the GS-12 level.

2. An "equivalent quarter" will be the accumulation of 416 hours of examining time as reflected in the "Total Examining Hours" on the PALM 3205-PR1 report (or equivalent).
3. For that Classifier-Examiner-Hybrid who has an average productivity over thirteen consecutive pay periods of half way to the next higher learning-curve-grade and who has demonstrated proficiency in quality and

other critical elements at the next higher learning-curve-grade may advance to the next learning curve grade level. Management will document advancement in writing. The Classifier-Examiner-Hybrid may elect to continue on the current learning-curve-grade-level until its normal expiration if that Classifier-Examiner-Hybrid believes he or she needs the entire time of the learning curve.

4. Those employees who elect to retain full signatory authority will notify their supervisor within the first quarter of FY 03 and will have a productivity learning curve equal to GS-11 for three equivalent quarters, GS-12 for four equivalent quarters, and GS-13 for four equivalent quarters. Upon expiration of the learning curve equal to the GS-13 level, the production goal will move to the full performance level of GS-14. There will be no learning curve equivalent to the GS-13 PSA level.
5. Management will also provide a pipeline adjustment, if appropriate, of  $(2N+D)/3$  until a normal pipeline is built up.
6. Those who elect to retain full signatory authority will be considered patent examiners rather than Classifier-Examiner-Hybrids and will be held to the performance standards of a GS-14 FSA for Patent Examining Functions, Action Taking and Patentability Determination. Those who elect to forfeit their full signatory authority will be considered Classifier-Examiner-Hybrids and will follow the learning curve found in section 1 above, moving to the GS-9 learning curve level for the remainder of the three equivalent quarters. The election is non-revocable and anyone not electing to retain Signatory Authority forfeits it.



10/7/02

Esther M. Kepplinger  
Deputy Commissioner for Patent Operations