




UNITED STATES PATENT AND TRADEMARK OFFICE

Deputy Commissioner for Patents

MEMORANDUM

Date: August 31, 2010

To: Patent Examining Corps

From: 
Peggy Focarino,
Deputy Commissioner for Patents

Subject: FY 2011 Revision of November 3, 2009, "Patent Examiner Patentability Determination Performance Element and Examiner Hoteling Waiver Period" Memorandum

On November 3, 2009, I issued a memorandum entitled "Patent Examiner Patentability Determination Performance Element and Examiner Hoteling Waiver Period." Today, I am issuing a revision to that memorandum, reflecting the fact that the hoteling waiver portion of the November 3, 2009, memorandum has been superseded by the March 9, 2010, "50 Mile Radius Agreement" between the Office and POPA.

Patentability Determination

No examiner shall receive an oral warning based upon a single clear error in Patentability Determination.

No examiner shall be deemed to have failed an oral warning improvement period on the basis of a single clear error in Patentability Determination.

No examiner shall be deemed to have failed a written warning improvement period (statutory performance improvement period) on the basis of a single clear error in Patentability Determination.

- However, an examiner may receive an oral warning for multiple clear errors in Patentability Determination over a period of two or more consecutive quarters during a fiscal year.

An examiner shall not receive a rating of record of less than Fully Successful for a fiscal year based upon a single clear error in Patentability Determination.