

**AGREEMENT between the  
UNITED STATES PATENT AND TRADEMARK OFFICE and  
PATENT OFFICE PROFESSIONAL ASSOCIATION to  
EXTEND AND MODIFY THE 2010 COUNT SYSTEM INITIATIVES**

This Agreement supersedes portions of any agreements, memoranda of understanding, policies, or practices with which it conflicts. If any portion of an agreement, memorandum, policy, or practice does not conflict with the provisions and policies set forth herein, that portion of the previous agreement, memorandum, policy, or practice will remain in force.

1. The United States Patent and Trademark Office (USPTO or Agency) and Patent Office Professional Association (POPA or Union) agree to extend and modify the “MOU Between the United States Patent and Trademark Office and the Patent Office Professional Association Regarding the 2010 Count System Initiatives and Other Initiatives on November 3, 2009,” (2010 CSI MOU) as detailed herein.

2. Except as specified below, the 2010 CSI MOU, as amended by the memorandum of January 11, 2010<sup>1</sup>, and the memoranda referenced therein shall continue in operation through FY 2011.

3. The following memoranda, issued on November 3, 2009, shall remain in effect as written.

- “Certification and Recertification Programs”
- “Patent Examiners’ Work Credit”

4. The following memoranda, are hereby modified, withdrawn in part, or superseded, as indicated.

- “Changes in Docket Management Policies” of November 3, 2009 – modified. A revised memorandum, titled “FY 2011 Changes in Docket Management Policies” is attached hereto and shall be implemented on October 1, 2010.
- “Patent Examiner Patentability Determination Performance Element and Examiner Hoteling Waiver Period” of November 3, 2009 – withdrawn in part. A revised memorandum, titled, “FY 2011 Revision of November 3, 2009, “Patent Examiner Patentability Determination Performance Element and Examiner Hoteling Waiver Period” Memorandum,” is attached hereto and shall be implemented on October 1, 2010.
- “Revisions to Examiner Production Credits and Expectancies” – superseded. A new memorandum, titled “FY 2011 Examiner Production Credits and Revisions

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<sup>1</sup> Entitled “Memorandum of Understanding Between the Patent Office Professional Association and the United States Patent and Trademark Office on Modification of the ‘MOU Between the United States Patent and Trademark Office and the Patent Office Professional Association Regarding the 2010 Count System Initiatives and Other Initiatives on November 3, 2009’”.

to Examiner Expectancies ,” is attached hereto and shall be implemented on October 1, 2010.

- “Examiner-Initiated Interviews” of November 3, 2009 – modified. A revised memorandum, titled “FY 2011 Examiner-Initiated Interviews,” is attached hereto and shall be implemented on October 1, 2011.
- “Design Examiner-Initiated Interviews and Design Examiner Docket Management Policies” of January 11, 2010 is superseded as follows:
  - portions of the January 11, 2010, memorandum relating to examiner-initiated interviews have been incorporated into the new memorandum referenced above, titled “FY 2011 Examiner-Initiated Interviews”.
  - portions of the January 11, 2010, memorandum relating to docket management policies have been incorporated into the new memorandum” referenced above, titled “FY 2011 Changes in Docket Management Policies.

The following provisions of the 2010 CSI MOU are hereby amended.

- Section 1 reverts to its pre-January 11, 2010, amendment status. The January 11, 2010, amendment to the CSI MOU has been superseded in its entirety and the memoranda referenced in the January 11, 2010, amendment have been incorporated in the amended memoranda referenced in 4, above.
- Section 4.A is amended to read (change in italics),  
This modification applies to Productivity Gainsharing Awards for FY 2010 *and* FY 2011. Unless the parties agree otherwise, Section 1.A.1 of the Agreement will revert to the original on *October 1, 2011*.
- Section 10 is amended to read,  
The Agreement shall remain in effect until the end of *FY 2011*. If the Agreement is not extended or modified by mutual agreement, all working conditions set forth as part of the Package shall return to their status prior to implementation of this Agreement.

The parties shall commence meeting no later than *August 1, 2011* to determine if the Agreement will lapse or be continued for an agreed period of time. By *September 1, 2011*, employees will be notified of the status of the Agreement.

- Section 12 is amended to read,  
On November 3, 2009, Deputy Commissioner for Patents Peggy Focarino issued a memorandum titled “Change to Patent Examiners’ Expectancies.” The Union agrees that any bargaining obligations stemming from that memorandum have been satisfied.

The "Change to Patent Examiners' Expectancies" memorandum is separate from the Package, except that if that memorandum is modified or terminated before *September 30, 2011*, then – at the Union's election – all components of the Package will terminate and all working conditions set forth as part of the Package shall automatically return to their status prior to implementation of this Agreement (*i.e., the status prior to the November 3, 2009 CSI MOU*).

Termination of the Package, whether due to expiration or for the proper functioning of the Agency, does not require the Agency to modify or terminate the "Change to Patent Examiners' Expectancies" memorandum. The "Change to Patent Examiners' Expectancies" memorandum will remain in effect unless modified, terminated, or otherwise replaced by a new policy following notice to the Union and the opportunity to bargain.

6. The Union agrees that any bargaining obligations stemming from the one-year extension of the 2010 CSI MOU, modifications to the MOU, and/or the extension or modification of above-referenced memoranda have been satisfied.

**Signatures:**

Margaret Focarino  
Margaret Focarino  
Deputy Commissioner  
for Patents

8/31/2010  
Date

Robert Budens  
Robert Budens  
President, Patent Office  
Professional Association

8/31/2010  
Date