

USPTO "Fighting" for Better Pay is More Like Shadowboxing

During a Sept. 12 online chat with employees, USPTO Director James Rogan stated that the agency has been, and will continue, fighting for greater pay for employees. That very afternoon, USPTO representatives said the agency would not consider granting even the 1.17 percent increase required by the Millennium Agreement unless employees agree to do more in return.

The following exchange was included in Rogan's online chat that day:

Good Examiner: How about the idea of giving the examiners a raise so that retention of good examiners increases? ... Will you fight for us so that our hard work and dedication are compensated?

Jim Rogan: Last year we requested and got approval from OPM for a 10 percent across-the-board special

pay raise for patent professionals. This has, in fact, helped us to reduce our attrition rate. We requested an increase to cover approximately the locality pay, but because attrition has decreased, OPM denied this request. We have been fighting to obtain higher levels of compensation for our dedicated employees, and will keep doing so.

However, that afternoon USPTO representatives told POPA that Nick Godici and Esther Kepplinger had said that the USPTO's only obligation was to meet with POPA and discuss alternatives, but any alternative would require an additional quid pro quo. In other words, the POPA bargaining unit would have to "do something extra" in exchange for the 1.17 percent differential, over and above POPA's com-

(continued on page 2)

Work at Home: From Bad to Worse

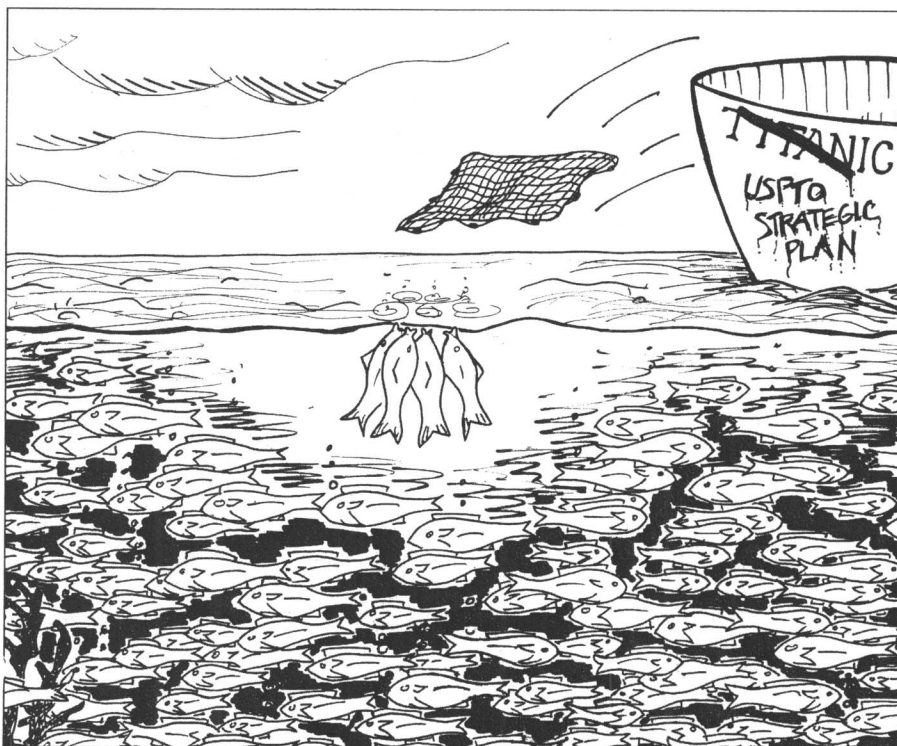
The most recent USPTO proposal for a Work at Home program is substantially worse than the one offered when the

agency shut down the negotiated ongoing program in July.

The proposal, delivered to POPA Sept. 4, withdraws all employee home-based technology assistance, including all agency-supplied hardware and software. It also severely restricts the participants' work schedules, dictating that participants work at their USPTO office during specified hours and prohibiting the use of comp time during those hours. Moreover, it allows the agency to terminate the program unilaterally at will.

The agency's previous, first offer outlined three levels of participation: Level 1 participants, who already have agency-supplied hardware that the USPTO now wants to take back claiming too-costly maintenance; Level 2 participants, who had agency software only; Level 3 participants, who received no additional assistance. The current, second offer effectively knocks all participants down to Level 3.

For Level 1, the USPTO says that the agency hardware and software is too expensive to support at home and plans to remove it. For Level 2, the agency won't agree to return the software programs that



The USPTO casting a "wide net" to capture employee input.

(continued on page 3)

USPTO "Fighting" for Better Pay

(continued from page 1)

promises in the Millennium Agreement. The agency representatives offered no concrete proposals of what they would find acceptable. They said they were not interested in just giving away the money for work done today.

The agency not only has the flexibility but the obligation under the Millennium Agreement to pay employees more, yet it has refused to do so.

POPA's standing proposal is for a 1.17 percent performance award to all employees who were rated fully successful or better. This action is legal under OPM regulations and within USPTO's full discretion. The agency even certified to OPM that it had the money available in the FY2002 budget.

The agency representatives said they would consider a quality award tied to the Strategic Plan for additional work done in FY '03, to be paid out in '04, but work now considered outstanding would not qualify for an award. More work would be required.

POPA said employees would be interested in a quality award, but not as meeting the obligation required in provision A2 of the Millennium Agreement.

Provision A2 states:

"The USPTO shall request OPM approval for the next five years to increase the special pay schedule so as to maintain the 10 percent and 15 percent salary differentials relative to the updated GS rates, in a manner consistent with OPM regulations. If OPM refuses the request, the Agency shall enter into discussions with POPA in order to provide substantially equivalent alternatives."

OPM did not approve the USPTO's request for the salary increase to maintain the differential. Consequently, per the agreement, POPA and the agency were to meet and discuss ways to provide the 1.17 percent differential. POPA and the agency had a clear understanding at the Millennium Agreement negotiating table that the parties would find a way to give everyone in the bargaining unit an increase equivalent to the locality increase given to other federal employees each year. Some suggestions to explore included general retention bonuses, awards, etc.

POPA has filed a grievance to compel the USPTO to uphold the pay increase as mandated by the Millennium Agreement. ▼

Leave Donations Needed

Primary Examiner Bob Budens (in Art Unit 1648) ran out of leave after extensive care for his ailing mother. He's now experiencing problems due to diabetes and is in need of leave.

For a leave donation form, please go to the USPTO employee Web site or call James Housel at 308-4027. ▼

Speaking Out on Pay

The following is a letter shared with POPA from an employee to USPTO administrators:

Dear Sirs:

I am writing to express my discontent with the current situation.

....Provision A2 says, "... in order to provide substantially equivalent alternatives." ... The discussions [with POPA] are just an explanation of HOW management will go about making such provisions. It would be one thing for management to try to weasel their way out of an obligation to follow the "spirit" of the agreement, but this is just a case of management acting in direct contradiction to the "letter" of the agreement.

...Management's excuse regarding many issues has been, "Congress won't approve it." However, in this case, all the power rests with management, and they cannot be rescued by the Congress excuse.

The aim of this agreement to promote employee retention will suffer greatly when employees see that within 5-7 years their "special pay scale" will have essentially been whittled down to nearly nothing over and above the regular government pay scale. I would have a hard time justifying staying at the PTO if my weighted pay were CUT by ~1.25 percent year after year....

In light of management's strategic plan to require agent testing to make GS-13 and recertification for primary examiners, it seems like the LEAST management could do is to adhere to the agreement already established and not allow it to diminish in value over a mere half-decade.

It is my sincere hope that management will enter more positive discussions with POPA, and that they will actually PROVIDE alternatives to the locality pay, as set forth in the agreement....

Lawsuit Challenges Paper File Destruction

The National Intellectual Property Researchers Association (NIPRA) filed suit in late August to block the planned USPTO elimination of the paper patent files.

"NIPRA members work every day on the cutting edge of technological change, so we fully understand and support the PTO's eventual goal of a paperless system," said NIPRA President James Cottone. "However, the abrupt elimination of the PTO's well-maintained and reliable paper collection makes no sense at this time, given the many bugs remaining in the database."

NIPRA filed a request in early September for a preliminary injunction to halt the planned file destruction. Attorneys for NIPRA and the USPTO have agreed to suspend the paper patent file elimination and further legal action pending the outcome of the first hearing on the case, scheduled for early December. ▼

