

August 29, 2002

Ms. Anne Chasser  
Commissioner of Trademarks  
U.S. Patent and Trademark Office  
2021 Crystal Drive  
Crystal Park 2  
9<sup>th</sup> Floor  
Arlington, VA 22202

Re: Grievance Challenging the Legitimacy of the RIF and Compliance with 5 U.S.C. 3501 Et Seq. And 5 C.F.R. 351 Et Seq. When Determining The Competitive Levels and Retention Standing of Employees.

Dear Ms.Chasser:

NTEU hereby files a grievance on behalf of all impacted employees challenging the legitimacy of the RIF to be conducted on September 30, 2002, and challenging the Agency's compliance with 5 U.S.C. 3501 et seq. and 5 C.F.R. Part 351 et seq. when determining the competitive levels and retention standing of competing employees. Specifically, the Agency contends that the RIF is being conducted because there is a lack of work. NTEU asserts that there is sufficient work to justify retention of the 135 attorneys targeted for separation. One of the primary goals of the Office is to minimize the time for processing trademark applications. Time is measured by first action and disposal pendency. The Office has projected that first action and disposal pendency will be 3.0 and 15.5 months, respectively, at the end of the 2002 fiscal year. The projections for fiscal year 2003 is 2.5 months for first action and 13.5 months for disposal pendency. Even with a full complement of attorneys, at the end of July 2002, first action pendency is 4.3 months and disposal pendency is 20.3 months, the highest they have been this fiscal year. Clearly, there is no lack of work to be performed at the Trademark Office. As such, the stated justification for the September 30, 2002, RIF is not legitimate or in accordance with 5 U.S.C. 3501 et seq. or 5 C.F.R. Part 351 et seq.

Furthermore, the agency has used inaccurate information in determining the competitive level and the retention standing of competing employees in violation of 5 C.F.R. 351.401 et seq. For example, on June 1, 2002, the Agency improperly froze all promotions. Consequently, all employees who should have received promotions on or after that date did not and, thus, are assigned to incorrect competitive levels. With regard to retention standing, improper ratings were used to grant additional retention service credit to some employees while proper ratings were not used and, thus, other employees were improperly denied additional retention service credit. Furthermore, prior government service was improperly, or not at all, factored. These are just some of the violations that NTEU has discovered regarding the accuracy and appropriate use of employee information in determining the July 30, 2002, RIF notices. NTEU will be submitting an information request to ascertain the extent of the agency's wrongful acts and their impact on employees.

As a remedy, NTEU requests that the Agency cancel the RIF and rescind the July 30, 2002, RIF notices. In the alternative, we request the Agency rescind the July 30, 2002, notices and comply with the appropriate regulations when redetermining the competitive levels and retention standing of employees. Finally, NTEU requests back pay, attorney fees and any other appropriate remedy. Should you have any questions, please do not hesitate to contact me at (202) 638-7760.

Sincerely,

Sharon Quinn Harris,  
National Counsel

Howard Friedman  
President, NTEU Chapter 245