

June 26, 2002

Anne Chasser
Commissioner for Trademarks
U.S. Patent and Trademark Office
2021 Crystal Drive
Crystal Park 2
9th Floor
Arlington, VA 22202

Re: Improper Denial of Promotions and Other Violations Resulting from the Announced RIF

Dear Ms Chasser:

Pursuant to Article 11, Sections 11 and 12 of the Agreement between the U.S. Patent & Trademark Office and the National Treasury Employees Union and NTEU Chapter 245, NTEU hereby files a grievance on behalf of itself and those bargaining unit employees who have been improperly denied promotions. This grievance concerns the Agency's failure to promote employees who are eligible for career ladder, accretion of duties, or temporary promotions. It also concerns the Agency's failure to provide the union notice and an opportunity to bargain over the proposed reduction in force (RIF), as well as its unilateral implementation of the RIF, including notifying employees that a RIF of Trademark Attorneys will be conducted on September 30, 2002, freezing all promotions on June 1, 2002, and establishing the process for employees to verify or correct the personnel information relied upon by the Agency to conduct the RIF.

By memorandum dated May 28, 2002, the USPTO informed employees that it planned to RIF one hundred thirty-five (135) Trademark Attorneys. In a meeting on May 29, 2002, the Agency announced that commencing June 1, 2002, it would freeze all promotions and that in preparation for the RIF employees must review and verify or correct data sheets containing their personnel information no later than June 21, 2002.

The Agency's unilateral freeze on all promotions has resulted in the improper denial of career ladder promotions up to the GS-13 level for Trademark Attorneys who were otherwise eligible for promotion on or after June 1, 2002, and, accordingly, constitutes a violation of Article 12, Section 7 of the parties' contract. The freeze has also resulted in the improper denial of attorney promotions to the GS-14 level through the accretion of duties certification process and, therefore, constitutes a violation of the Memorandum of Understanding between NTEU and the PTO dated November 17, 2000.

In the alternative, NTEU asserts that, in violation of Article 12, Section 6 of the contract, the same employees who were, and continue to be, improperly denied career ladder or accretion of duties promotions as a result of the freeze have performed and continue to perform higher graded duties without proper compensation since the date they first became eligible for promotion on or after June 1, 2002.

Furthermore, the freeze on promotions is a unilateral change in the Agency's established policy of granting career ladder, accretion of duty, and temporary promotions to employees who meet the established requirements for such promotions and its past practice of promoting such employees and, therefore, constitutes violations of Article 3, Sections 2 and 3 and Article 6, Sections 1 and 2 of the contract and 5 USC 7116 (a)(1) and (5).

The Agency's failure to provide NTEU notice and an opportunity to negotiate over, and its unilateral implementation of, the RIF (including notifying employees of the RIF, freezing promotions and establishing the process for verifying employee records) constitute violations of Article 3, Sections 2 and 3; Article 6, Sections 1, 2,

and 3; Article 9, Sections 1, 2, and 3; Article 30, Sections 2 and 3; and Article 33, Sections 1, 2 (excluding 2A) and 3 of the parties' contract and violations of 5 U.S.C. 7116(a)(1) and (5).

Moreover, the Agency's clear and patent breach of the various provisions of the parties' contract and the November 17, 2000 MOU between NTEU and PTO constitute separate violations of 5 U.S.C. 7116(a)(1), and (5).

As a remedy, NTEU requests that the Agency: 1) cease its unilateral implementation of the RIF and return to the status quo ante, including lifting the freeze and granting retroactive promotions with backpay and interest to those attorneys who were improperly denied promotions (career ladder, accretion of duties or temporary promotions) because of the freeze, 2) bargain and reach agreement with NTEU prior to implementing the RIF, 3) pay NTEU reasonable attorney fees, and 4) all other remedies deemed appropriate.

NTEU believes that this grievance is properly filed with Commissioner for Trademarks Anne Chasser, as she is the only official with the authority to resolve the grievance. However, if the Agency disagrees, please forward this grievance to the appropriate agency official and inform NTEU of that person's identity. Finally, NTEU requests a meeting to discuss this grievance. To schedule the meeting please contact either Ms. Harris at (202) 638-7760 or Howard Friedman at (703) 308-9101, extension 139.

Sincerely,

Sharon Quinn Harris,
NTEU National Counsel

Howard Friedman
President, NTEU Chapter 245

cc: Colleen M. Kelley, National President, NTEU
Frank Ferris, National Executive Vice President, NTEU
James Rogan, Undersecretary of Commerce for Intellectual Property and Director of the United
States Patent and Trademark Office
Joyce Ong, Chief, Labor Relations Division