

Proposals for Career Development Details and Work Projects For Examining Attorneys

As discussed with management on Friday, February 13, 2009, career development details and work projects provide an opportunity for examining attorneys to gain important experience and knowledge, while at the same time allowing the Office to more effectively manage application inventory levels. Management has expressed an interest in creating more details and work projects to temporarily move more full-time employees off of production.

The Union believes that management should explore details in a broader range of areas than usual. Management has indicated that details must promote the mission of the USPTO and provide a benefit to both Trademarks and the employee. In the past, some employees have expressed interest in doing details wholly unrelated to intellectual property law, which were unapproved because the details did not relate to the mission of the USPTO. However, the Union believes that “mission of the USPTO” should be construed broadly, and not confined specifically to solely Trademark law, particularly in light of past and current precedent of allowing examining attorneys to work career development details in the Office of the General Counsel, a position focusing on general (not trademark or intellectual property) law. Thus, details dealing with the broad range of intellectual property law should be considered.

The Union also believes that examining attorneys should be allowed to apply for existing details offered to other business units. For example, the Office of Governmental Affairs (OGA) has expressed interest in having a detailee to work on patent reform legislation, and expects to offer a detail to patent examiners. The Union believes that examining attorneys should be allowed to apply for this detail. The bargaining unit currently has members with patent backgrounds, including former patent attorneys, former patent litigation associates (even if they themselves are not eligible to sit for the patent bar due to lack of a science degree), people with LL.M.s who have taken advanced patent law classes, and others who have worked on patent reform issues while on the Hill. OGA (and possibly even Trademarks management) may not be aware of the patent (and copyright) backgrounds of many in our examining corps.

Likewise, the Office of Intellectual Property Policy and Enforcement (OIPPE) has the following specialties: Patents, Trademarks, Copyright, Trade, and Enforcement. Occasionally, the Trademarks section of OIPPE offers details to examining attorneys. However, as indicated above, many in the examining corps have broader backgrounds than merely trademarks. Several examining attorneys were trademark and copyright attorneys prior to coming to the USPTO, or have LL.M.s with a strong focus on international copyright issues, or had worked on the Hill. Thus, management should speak with the heads of the other OIPPE sections, as well, to create details.

Therefore, in addition to the usual trademark details (e.g., Office of General Counsel, Solicitor’s Office, Office of Trademark Policy and Procedures, TTAB), the Union proposes the following additional career developments and work projects:

Details:

1. Details with IP Subcommittees in the House and Senate
2. Details in each of the following OIPPE sections: Trademarks, Patents, Copyright, Trade, Enforcement
3. Details to work with the office of the newly created “IP Coordinator” (a White House level position commonly known as the IP Czar) to work on anti-piracy initiatives
4. Detail to Office of External Affairs, particularly working on geographical indications.
5. Detail with other Commerce agencies, as is done in the ComSci program
6. Details to the Court of Appeals for the Federal Circuit
7. Details with the U.S. Trade Representative
8. Details with the Department of Justice’s Intellectual Property section (Commercial Litigation Branch)
9. Details to seniors and managing attorneys to assist with special projects
10. Details to Office of Government Affairs
11. Detail with Customs and Border Protection/Immigration and Customs Enforcement related to protecting American businesses from theft of their intellectual property
12. Detail with Assignment Division to help improve the assignment process as it related to Trademarks (e.g., the assignment form doesn’t require applicants to include the citizenship of the assignee which creates problems for us in Trademarks)
13. Detail with Commerce dealing with intellectual property rights violation issues in China
14. Detail with Federal Trade Commission
15. Detail with Office of Enrollment and Discipline to follow-up with the complaints we continue to receive from customers about unscrupulous groups that send pro se applicants letters that have the appearance of originating with the Office.
16. Detail to work on trilateral negotiation of classification and identification issues
17. Detail to work with OTQR to develop new and revise current training materials and lectures
18. Detail in the Commissioner’s Office
19. Detail (for trademark examining attorneys with patent backgrounds) in patent examination and/or Board of Patent Appeals and Interferences (triple win for the agency as a whole: helps with backlog problem on patent side, helps with inventory problem on trademark side, and provides refreshers for in-house expertise related to functionality issues once the attorney returns to trademark examination)
20. Detail in the Business Method Patents art units
21. Detail with Office of Public Affairs, helping with Congressional inquiries, publicity, etc
22. Detail with Office of Civil Rights (OCR’s Director, Bismarck Myrick, has expressed interest, as the OCR is low on permanent staff)

23. Detail with International Trade Commission regarding gray market goods and other trademark issues
24. Detail to assist the White House with efforts to stop commercial exploitation of the President's image, name and likeness, and the presidential seal. (See <http://www.washingtonpost.com/wp-dyn/content/article/2009/01/11/AR2009011102123.html>)
25. Detail with Bureau of Indian Affairs or Interior, related to trademarks filed by Native American tribes

Work Projects:

1. Writing regular articles on trademark issues for the INTA newsletter (could be done by attorneys on TWAH with no need to come into the office)
2. Liaisons to local (and other) law schools
3. Teaching house courses to local colleges on trademark or IP issues (co-taught with patent/copyright personnel)
4. Mentoring law school interns
5. Making presentations to local high schools on the importance of intellectual property/anti-piracy
6. Writing case notes or law review articles on trademark matters (examining attorneys would either pitch an idea and get it approved or pick from a list of matters put together by the coordinating attorney) for Journal of the Patent & Trademark Office Society and other law journals (could be done by attorneys on TWAH with no need to come into the office)
7. Making presentations to law offices on important trademark examination and/or legal developments
8. Making presentations to INTA meetings
9. Work project with OCIO or sub group in design, maintenance and/or deployment of electronic systems. Many of our attorneys are highly savvy when it comes to programming languages and new technology.
10. Working on a form paragraph for the "Disadvantages of Supplemental Registration" (similar to the H12 paragraph that would explain cons of supplemental registration and would be particularly helpful to pro se applicants)
11. Outreach program for law firms, trademark practitioners, and the general public to provide guidance, tutorial sessions, or seminars about filing better applications and/or responses
12. Making presentations to business or corporate groups about the importance of IP, particularly in a down economy (and perhaps as a side benefit might encourage people to file for trademarks)
13. Work project for "experts" in the areas of identifications of goods and services, receiving and resolving identification questions generated by the examining attorneys on files they are handling.
14. Work project to create a searchable TTAB database
15. Work project in Trademark Assistance Center (promotes greater knowledge of trademark procedures and all Trademark units, with added benefit of strengthening customer service)
16. Work projects to explore new business opportunities for the USPTO. For example, explore a business model that would allow applicants to pay additional

fee to have IDs prescreened prior to filing. Eliminates the numerous OG bounces (delays in prosecution), minimizes attorney fees for the applicant.

17. Work project with TEAS unit to work on upgrading existing TEAS forms and creating new forms.
18. Work project to consolidate all miscellaneous Trademark information into one document or application. The Office could minimize mistakes or missed issues by providing some sort of directory of the electronic information. For example, divide the document into issues (2d, 2e1, ID/CL, evidence, specimens) and provide general information and links to the TMEP, Exam Guides, Exam Notes
19. Work project to develop law office websites
20. Work project to update the Madrid ID Suggestions spreadsheet.
21. Work project to put together a presentation entitled “How to Work Smarter and More Efficiently” using all of the technology at our disposal. (For example, many examining attorneys who have been here for a long time don’t know how to highlight pertinent information in their evidence from the Internet. Some don’t know how to put images into an Office Action to best illustrate the similarity of the marks in 2(d) cases)
22. Patent examiner-trademark examiner exchange – examining attorneys could do a short presentation on trademark law at the Patent Academy or presentations at art unit meetings.