

Patent Procedures at the PTO: A New Naples Roundtable Study (con'd)

Further to yesterday's announcement of a study of PTO procedures and the response by two senior members of the profession, a third response has been received by a highly respected leader of the profession who has a considerable experience within the PTO: "Not only should the POPA contract be torn up, but the PTO needs the civil service reform legislation promised by Trump."

Can Director Michelle Lee "Drain the Swamp": Does Director Lee have the interest in helping the President "drain the swamp"? Her track record as an Administrator shows no interest in challenging POPA, the first necessary reform, absent which the promise to "drain the swamp" is an empty pledge in terms of reforming the three billion dollar budgeted PTO.

Attached to the pdf version of this note are the three comments from leaders of the patent community (the third being newly added).

Regards,
Hal

The First eMail: I have long been pressing Director Lee openly to reward outstanding examiners and discipline, at least by transfer to less desirable and less harmful positions, those who perform poorly, whether by pattern of wrongful allowances or pattern of wrongful denials. She implied contracts or understandings with the union largely tied her hands. I would love to investigate these issues and determine the extent of accuracy in her explanations.

If she is really blocked, then the PTO-union arrangements must be revised. If she is not, then she should be placed under unrelenting pressure to do as I suggested.

The Second eMail: The Collective Bargaining Agreement can be found here. <http://popa.org/about/popa-legal-texts/>. Many other agreements, e.g., teleworking, can be found on the POPA web site. Tellingly, the CBA is dated in 1986. Like “compact prosecution” the CBA needs to be torn up and the entire patent examination system needs to be re-engineered starting with a clean sheet of paper. If Ms. Lee is retained as Director, I hope she has new marching orders regarding the PTO’s relationship with POPA to where PTO management will take control of the agency back from the union.

The Third eMail: Old-timers almost universally agree that patent quality is lower than it was 30 years ago. Quality is lower for many reasons, including (1) weaker supervision of examiners, (2) less emphasis on examiners becoming experts in their arts, (3) no collaboration among examiners in the same or similar arts, (4) no incentives to obtain law degrees, (5) bonuses that are too small but are given to nearly every examiner, and (6) no real authority to fire or demote managers or examiners. Not only should the POPA contract be torn up, but the PTO needs the civils service reform legislation promised by Trump. Or the entire examining function should be contracted out.