

June 26, 2002

Anne Chasser  
Commissioner for Trademarks  
U.S. Patent and Trademark Office  
2021 Crystal Drive  
Crystal Park 2  
9<sup>th</sup> 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 adequate 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 letters dated May 28, 2002, the USPTO informed both the union and employees that it planned to implement a RIF of 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. In addition, it informed employees that in preparation for the RIF employees must review and verify or correct data sheets containing their personnel information, which were provided to employees on that same date, 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.

NTEU also 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 unilateral implementation of the RIF and its failure to provide NTEU adequate notice and an opportunity to negotiate over the RIF (including but not limited to 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 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) rescind the May 28, 2002 notice of the RIF; 2) cease its unilateral implementation of the RIF and return to the status quo ante, including lifting the freeze, 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 and recalculating the personnel information relied upon by the Agency for RIF purposes for each promoted attorney, 3) bargain and reach agreement with NTEU over the impact and implementation of the RIF prior to its implementation 4) pay NTEU reasonable attorneys fees, and 5) provide any and all other remedies deemed appropriate.

NTEU believes that this grievance is properly filed with Anne Chasser, Commissioner for Trademarks, as she is the only official with the authority to resolve this 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, extension 2110 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