



Report Summary

AUGUST 2016

Background

In August 2015, the Office of Inspector General (OIG) released an investigative report outlining extensive time and attendance abuse by "Examiner A," a patent examiner at the U.S. Patent and Trademark Office (USPTO) who received \$25,500 by falsely claiming to work at least 730 hours in fiscal year 2014. The OIG raised questions about the adequacy of USPTO internal controls, given the extent of Examiner A's abuse, and management's inability to prevent, detect, or stop it.

The OIG's findings in the Examiner A Report, other related matters, and Congressional interest suggested the need to determine whether time and attendance abuse is a prevalent and persistent problem within the USPTO. With that in mind, the OIG undertook a minute-by-minute review of data for virtually all (94%) USPTO patent examiners' claimed work hours to determine the overall level of unsupported work hours, which in turn might identify the extent of time and attendance abuse. This effort involved comparing the hours that patent examiners claimed to work over both a 9- and 15-month overlapping periods, on the one hand, with multiple datasets that provided evidence of actual work, on the other.

The resulting analysis provides an overview of potential time and attendance abuse within the patent examiner ranks and key insights to assist USPTO's management to prevent and detect future abuse, including recommendations that address the concerns raised by these findings.

U.S. PATENT AND TRADEMARK OFFICE

Analysis of Patent Examiners' Time and Attendance

OIG-14-0990-I

WHAT THE OIG FOUND

The OIG's comprehensive analysis focused on two overlapping periods: a 9-month period (8.6 million hours) and a 15-month period (14.6 million hours). Using the 9-month calculation as the baseline, the one-year average of unsupported time amounted to nearly 180,000 unsupported hours. However, the total unsupported hours over the 9 and 15-month periods could be twice as high as reported in this investigation. For the 9-month period, the OIG identified approximately 138,000 unsupported hours, equating to nearly \$8.8 million in potential waste.

- Approximately 28% of the total unsupported time consisted of overtime hours.
- 296 of all examiners covered in this analysis had 10% or more unsupported hours and accounted for 39% of the total unsupported hours.
- 226 of the 296 examiners accounted for over 42,000 unsupported hours and also received above-average annual performance ratings.

For the 15-month period, the OIG identified over 288,000 unsupported hours, equating to over \$18.3 million in potential waste.

- 415 of all examiners covered in this analysis had 10% or more unsupported hours and accounted for 43% of the total unsupported hours.
- 310 of those 415 examiners received above-average annual performance ratings and accounted for nearly 98,000 unsupported hours.

The OIG also found that the USPTO policies limit the agency's ability to prevent and detect time and attendance abuse. For example:

- The USPTO does not require teleworkers to log in to their computers on workdays if they do not telework full-time.
- Although the majority of examiners with unsupported hours received average or better performance ratings, the USPTO requires that only poor performers provide their supervisors with work schedules.
- The USPTO does not require that on-campus examiners use their USPTO-issued ID badges to exit through the access control turnstiles during weekday working hours.
- The data suggest that USPTO's production goals are out of date and do not reflect current efficiencies.

WHAT THE OIG RECOMMENDED

The OIG recommended that the USPTO should (1) reevaluate its examiner production goals for each art unit and revise them, to the extent necessary, to reflect efficiencies in work processes from automation and other enhancements; (2) require all examiners to provide supervisors with their work schedules, regardless of performance and ratings; (3) reinstate the USPTO requirement that employees use their USPTO issued ID badges to exit the USPTO facilities through the controlled-access turnstiles during weekday working hours; (4) require all teleworkers to remain logged into the USPTO network during their working hours; (5) review its policies, procedures, and practices pertaining to overtime hours to identify and eliminate the areas susceptible to abuse; and (6) consider deploying SOHO routers to all teleworkers.