

Clarity of the Record Pilot MOU

Preamble:

This MOU was reached through pre-decisional discussion between the parties. As a result of these discussions, USPTO will implement the Clarity of the Record Pilot (Pilot) in accordance with the attached Clarity of the Record Pilot Implementation Guidance, Correctness and Clarity Data Capture (CCDC) subset, training modules and the following provisions:

1. Information and Data Sharing

Data generated in the Pilot shall be shared promptly so that both parties may analyze the data contemporaneously. The USPTO will provide POPA with the names of all bargaining unit employees participating in the Pilot and the aggregate results for consideration in evaluating the success of the Pilot. Pilot participants will be scheduled to attend monthly POPA-facilitated focus sessions to discuss their experiences with the Pilot; following each session, POPA will share collected information with the USPTO.

2. Participants and Eligibility Criteria

Pilot participants will consist of those volunteer managers, Quality Assurance Specialists, and utility examiners at the GS-11 through GS-15 levels with at least two years of patent examination experience, who meet requirements for participation. To have a diverse pool of participants, the USPTO will invite examiners, who have been randomly selected from all examiners who meet the requirements for participation, to participate in the Pilot. Invited examiners may then volunteer to participate in the Pilot. A minimum of 30 volunteer examiners and up to approximately 150 volunteer examiners will be selected to participate in the Pilot. Management will notify POPA if any volunteer examiner is not accepted into the Pilot. In addition, POPA may recommend one POPA participant, who meets all requirements for participation, from each utility Technology Center to participate in the Pilot.

In order to be eligible to participate in the Pilot, examiners must have a rating of record and year-to-date performance of at least Fully Successful. Examiners on performance warnings, safety zones and performance abeyance agreements, and examiners who have been suspended pursuant to a disciplinary or adverse action within the last 12 months or who are under an active investigation or proposal for disciplinary or adverse action for misconduct that would warrant suspension will not be eligible to participate. Any examiner participating in the Pilot who, during the course of the Pilot program becomes ineligible for one of these reasons (except for year-to-date performance below Fully Successful), may be removed from the Pilot.

Once selected, examiners may opt out of the pilot at any time at the start of the next PALM pay period after providing written notice to the supervisor. Management may determine to remove an examiner participant who fails to follow Pilot requirements at any time at the start of the next PALM pay period after providing written notice to the examiner. POPA will be provided written notice with the names of the examiners who are no longer participating in the Pilot within the following bi-week of leaving the Pilot.

3. Training

Examiners will be provided group training at the start of the Pilot in accordance with the training materials attached hereto. Background training may be provided on the concepts covered by the Pilot training modules. Training will be provided both in-person and via WebEx.

Training is part of the Pilot. Examiners will either participate in the initial training sessions or make arrangements to participate in a makeup session. Examiners who are not able to attend initial training or makeup sessions will not be able to participate in the Pilot.

4. Ongoing Discussions and Modifications to the Pilot

The parties shall meet at the request of either party to discuss the progress of the Pilot, or any other issues arising from the implementation of the Pilot. These issues may include the need for adjustments in non-production time (as set forth in the document entitled, "Clarity of the Record Pilot Implementation Guidance" dated January 27th, 2016, attached hereto) or substantive changes to the Clarity and Correctness Data Capture (CCDC) subset and training modules that would change the scope of the Pilot. The parties agree to work together to jointly address issues raised by either party with a goal of reaching a resolution to the issues that is acceptable to both parties within a reasonable time. Agreed upon changes will be implemented.

If agreement cannot be reached informally over negotiable proposed changes to the Pilot, USPTO agrees not to move forward with changes.

5. Third Party Proceedings

Both parties recognize that Pilot participants are not representative of the examining corps as a whole. In the event of third party proceedings (e.g. FSIP or arbitration), the Agency agrees to mark and share with the Union any data or documentation gathered through the Pilot before providing the data or documentation to a third party. Each page provided will be marked as follows: "Data gathered through Clarity of the Record Pilot. Pilot participants were limited to examiners GS-11 and above with at least two years of patent examination experience and with ratings of Fully Successful or better who were not under investigation for serious misconduct and had not been subject to disciplinary action within the previous year. Examiners selected for the Pilot who failed to follow Pilot requirements or who became ineligible during the course of the Pilot may have been removed from the Pilot."

6. Duration and Termination

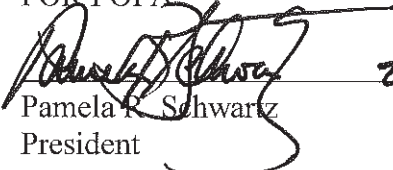
Recruitment and preparatory efforts may begin as of the execution of this MOU. Pilot operations will begin February 21st, 2016 and ends after twelve PALM pay periods. The USPTO may terminate the Pilot earlier at its sole discretion.

7. Bargaining Obligation

POPA acknowledges that the USPTO's obligation to negotiate over the implementation of the Clarity of the Record Pilot and the attached Clarity of the Record Pilot Implementation Guidance has been fully satisfied.

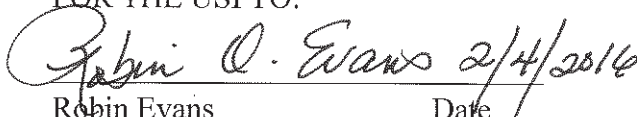
Signatures:

FOR POPA:


Pamela R. Schwartz
President

2/4/2016
Date

FOR THE USPTO:


Robin Evans
Director, TC 2800

2/4/2016
Date

Attached:

1. Clarity of the Record Pilot MOU
2. Clarity of the Record Pilot Implementation Guidance
3. Training Materials
 - Clarity of the Record: Introduction
 - Clarity of the Record Pilot: Interview Summaries and pre-search Interview Option
 - Clarity of the Record Pilot: Documenting Claim Interpretation
 - Clarity of the Record Pilot: Reasons for Allowance
4. Correctness and Clarity Data Capture (CCDC) subset