

**STATEMENT OF
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DEPUTY UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL
PROPERTY
AND
DEPUTY DIRECTOR OF THE
UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE
SUBCOMMITTEE ON FEDERAL WORKFORCE, POSTAL SERVICE, AND
THE DISTRICT OF COLUMBIA
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
United States House of Representatives
“Telework: Breaking New Ground”
November 6, 2007**

Chairman Davis, Ranking Member Marchant, and Members of the Subcommittee:

I am delighted to be here today to discuss the United States Patent and Trademark Office’s (USPTO) telework programs. In 2003, Congress designated October as “National Work and Family Month.” Telework is integral to work-life balance, and therefore this is an exceptionally appropriate time to highlight our innovative and cutting edge telework programs, which assist our employees in balancing their work and family responsibilities. I commend you for holding today's hearing and for working diligently to ensure that our Federal Government is in the vanguard of telecommuting efforts.

For very practical reasons, the USPTO is changing the boundaries of old workplace patterns. We have a workforce of motivated, high performing employees. Our vision is for those employees to perform all their responsibilities regardless of physical location. The USPTO is a performance-based organization that operates by the principles of communicating expectations and managing by results. We trust our employees to do what

is required of them, without micro-managing observation. The principles of communicating expectations and managing by results are, we believe, requisites for a functional telework environment.

Current Statistics

The USPTO's employees are crucial to intellectual property in America. Therefore, we strive to do everything we possibly can to ensure they work in an environment of trust, respect, and opportunity. Telework is one of our many family friendly initiatives that has earned the USPTO recognition by *Business Week* magazine as one of the best places in America to launch a career and to round out one's career and by *Families* magazine as one of the best places in the Washington area to work if you have a family.

The strength of our programs is a testament to the professionalism of our employees. As of October 19, 2007, there were 3,609 USPTO employees participating in some form of telework. This is 40.7% of our total workforce and 45.7% of total eligible employees, making the USPTO's telework program the largest and most progressive within the Federal Government.

I would like to take the rest of this opportunity to share with you the USPTO's background with telework, discuss lessons we have learned, and let you know where we are headed.

History of USPTO's Telework Program

Trademark Work-at-Home Program

The USPTO's experience with telework began in 1997 when, in response to employee suggestions, the Trademark Work-at-Home (TWAH) program began as a two-year pilot program. Trademark management worked closely with the representative union, NTEU 245, and eighteen examining attorneys started working from home three days per week. Employees on the pilot shared office space with other program participants two days a week.

After measuring both the productivity and quality of work, and finding positive results, in 1999 the Trademark organization expanded its pilot to an additional 60 examining attorneys. The Trademark Work-at-Home program continued its expansion to 89 examining attorneys in 2001. Also in 2001, the USPTO received the "2001 Commuter Connections Employee Recognition Telework Award" from the Metropolitan Council of Governments and the "Government Agency Excellence in Telework Award" from the International Telework Association and Council for its Trademark Work-at-Home Program.

In November 2001, a hoteling pilot was initiated. Twenty-one of the TWAH participants spent 90% of their workweek at home and just four hours per week at the official work site. Participants' individual offices were freed for other uses, while participants shared dedicated banks of offices called "hotels" which they reserved on-line before coming into the office. The pilot proved successful as productivity among hotelers was higher,

compared with non-hotelers, while quality and customer service levels were maintained. As a result, in 2003 the TWAH program moved completely to hoteling, with all the then 110 TWAH participants giving up dedicated office space in favor of hoteling space.

More than 10 years later, the TWAH program is a leading, comprehensive program involving more than 240 employees (86% of the eligible examining attorneys) who spend the majority of their work-week at home and share reservable space in the office. The most recent awards won by the Trademark organization include the “2007 Telework Driver Award” from the Telework Exchange, the “2007 Work-Life Innovative Excellence Award” from the Alliance for Work-Life Progress, and the 2006 “Telework Program with Maximum Impact on Government Award” from the Telework Exchange. Other notable awards won by the USPTO include recognition from the Metropolitan Washington Council of Governments, the Mid-Atlantic Telework Advisory Council, and the International Telework Association and Council.

Patent Hoteling Program

After Trademark’s success with its work-at-home programs, the USPTO expanded its telework initiative to include patent examiners. In 2006, a group of approximately 500 patent examiners participated in the Patent Hoteling program. This program built upon the lessons learned from the USPTO’s Trademark Work-at-Home program and quickly mimicked the successes of Trademarks. Similar to the Trademark program, the Patent Hoteling program is a flexible telecommuting program that provides participants the ability to access all relevant USPTO patent business systems, job performance tools,

patent information, and patent application documentation as efficiently at their remote worksite as on our Alexandria campus.

To date, over 1,000 patent examiners hotel as part of the Patent Hoteling Program. I was extremely pleased when earlier in the year the Patents Hoteling Program received the “Excellence in Telework Leadership Award” from the Telework Exchange, an honor designated specifically for programs initiated within the last 12 months, taking into account start-up challenges and early accomplishments. Over the next several years, the USPTO expects to hire 1,200 new patent examiners a year, and by the end of fiscal year 2011, we expect to have some 3,000 patent examiners hoteling.

Other Programs

Rather than taking a “one size fits all” approach, the USPTO has 15 other formalized telework initiatives and 3 telework pilots in progress within 7 of our corporate business units, each addressing the specific needs of the business unit and its employees. These include programs for Patent and Trademark managers, the Patent Legal Instrument Examiners, the Board of Patent Appeals and Interferences, the Trademark Trial and Appeal Board, the Trademark Assistance Center, the Office of Civil Rights, our Office of Human Resources, Office of the Solicitor, and Office of General Law. Pilot programs are currently underway within our Office of International Intellectual Property Protection and Enforcement, our CFO’s office, and our CIO’s office. Participants in these programs and pilots telework anywhere from one day a week to four days per week.

Security

The USPTO has an extensive IT security infrastructure and a strong security policy that work together to ensure that both personally identifiable information and business sensitive information are adequately protected from loss or theft. These protections have been implemented throughout the USPTO telework program and help to prevent the possible occurrence of a sensitive information security breach.

Senior Level Telework Coordinator

In January 2006, the USPTO hired a highly qualified senior level Telework Coordinator at the USPTO, who spends 100% of her time developing and overseeing the implementation and operations of our comprehensive telework and hoteling programs. Our Coordinator promotes telework by effectively communicating to employees and managers our telework policies, programs, procedures, and eligibility requirements. She encourages all eligible employees and business units to participate in telework to the maximum extent possible.

Telework Working Group

In January 2007, at the initiative of our Telework Coordinator, the USPTO established a Telework Coordinators Working Group. Every business unit within the USPTO has a designated Telework Coordinator who represents their group on telework matters and is responsible for gathering and reporting quarterly telework participant numbers and successes. These Coordinators meet regularly to share information between the various business units, analyze the telework needs of the agency, address eligibility issues,

examine current trends in telework, and discuss both IT and non-IT solutions to establishing telework programs within the agency.

Telework Website

In early 2007, also at the initiative of our Telework Coordinator, the USPTO established a Telework Resources Web Site on our Intranet site. The web site provides answers to employee's frequently asked telework-related questions, guidelines for existing USPTO telework programs, and safety guidelines for the home workplace. USPTO telework contacts, current news articles on telework, case studies from other organizations, and links to various telework informational web sites are also listed on the Telework Resources Web Site.

What We Have Learned

During the course of the past 10 years, as we have incorporated telework as a business strategy, we have learned to start small, gather metrics, and continually revisit our telework strategies. We have involved our labor unions early in the process. Training and education, for both employees and managers, must be an integral part of any telework initiative. We know that management support, at the highest levels, is necessary but not sufficient for telework success – managers at all levels must value and support telework. Finally, we have found that having a senior level Telework Coordinator overseeing our telework policies and procedures has helped us build on success in both a scalable and sustainable manner.

1) Start Small, Assess, Then Scale - A successful telework program does not happen overnight. Like running a start-up business, Federal Government agencies should not expect or demand immediate returns. The USPTO has insisted on a conservative, studied, incremental approach, in addition to a patient, committed approach, with its focus on metric-based fundamentals, which has reaped dividends. Pre- and post-implementation surveys and focus groups of managers, participants, and employees remaining in the office are paramount to ensure that the needs of all the stakeholders are met. Pilot programs help us learn lessons promptly and permit quick modifications that allow for program success.

2) Management Commitment is Key - Management participation and approval is a critical piece of any successful telework program. Managers must understand the benefits of teleworking to alleviate their concerns about the potential for lost productivity and losing control over their employees' work product. While senior management commitment is fundamental, it is not sufficient. Managers at every level of the organization must understand and support the benefits of telework, or else they can create a "self-fulfilling prophecy" environment where employees fail because they are not permitted to succeed.

3) Metrics Make Managing Easier - The nature of our patent and trademark examination work easily lends itself to employee telecommuting. When we first began our telework program over 10 years ago, we believed we could accomplish our goals because we had clear production requirements. However, as mentioned earlier in my testimony, we have

expanded to include telework programs throughout the entire agency, and have since realized that working in a production environment is not a necessary precondition for success. To succeed, managers must be open to “managing by objective,” with metrics, service-level-agreements, and understood deadlines in place before employees telework. Clearly defined goals must be agreed upon and then communicated carefully to employees. The employees’ appraisals then need to be measured on the achievement of these objectives. Trust between managers and employees is an essential component of any successful telework program.

4) Unions - Involving labor unions in the development of telework programs engages employees and increases the chances for union support. Telework works well for both employees and management and should be promoted as a voluntary benefit that will enhance quality of life for employees.

5) Train Early and Often - Training and education are critical to the success of a telework program. Employees and managers must be trained in the technology of working at home with an emphasis on computer security. When employees and managers are comfortable with the technology, the telework mechanics become facilitation tools. Without that comfort level, the technology can be an obstacle to completing even simple tasks, thus discouraging both managers and employees. Training employees to anticipate what it is like to work at home helps teleworkers maintain high productivity and quality without feeling isolated from their colleagues at the office. Training managers who supervise

teleworkers, including how to better communicate in a telework environment and how to set the right performance metrics, ensures their employees are successful.

6) Telework Coordinator - Having a full-time Telework Coordinator who carefully monitors and provides continuous assessments of the USPTO's telework programs, who seeks program improvement and expansion, who recommends and oversees pilot programs, and serves as a liaison between employees and managers has proven very beneficial to the USPTO.

In summary, successful telework programs are comprised of well-trained and educated employees who have the resources they need at home to do their jobs well. Telework must be utilized as an agency business strategy and management must provide clear performance expectations and transparently manage change. Also, assessments of each program must be on-going.

Telework Benefits

For the USPTO, telework has meant different things to different people.

Commuting – Not surprisingly, many employees favor telework because they're finally getting enough sleep, not having to get up early or stay late to avoid morning and evening traffic jams. For many employees, telework means far less commuting and commuting anxiety, which frankly, adds hours of "found time" to an otherwise hectic and exhausting day.

Enhanced Work/Life Balance - For other employees, the most important benefit of telework is their improved work/life-family balance, giving employees the ability to volunteer in their child's classroom, take their children to their doctor's appointments, spend time with their spouse, or care for an aging parent, all resulting in stronger family ties and unity. Others express greater control over workloads allowing for more time for leisure activities such as spending time in their garden or taking an art class, while others enjoy being more involved with their community by volunteering at their parish or synagogue, local animal shelter, or with disadvantaged children.

Overall Benefits - Some employees have emphasized the various health and safety benefits of telecommuting, including having less communicable diseases such as the cold or flu, a reduction in stress-related illnesses, and an improved feeling of well-being from being able to go for a run or to the gym during lunch or being able to walk their dog. And a few employees find that reduced personal costs, including money spent for gas, parking, vehicle maintenance, and other incidentals make telework a bottom-line benefit.

Whatever our employees perceive as the primary personal benefit of telework, our telework program helps us improve overall employee retention - - thus reducing the costs of recruiting and training associated with high staff turnover rates. For the USPTO, telework also means higher employee productivity and increased morale and employee satisfaction. This is shown by a survey taken at the USPTO by trademark examiners, with 99% of trademark teleworkers reporting increased job satisfaction because of telework.

Telework has been a significant factor in helping us strive to meet our agency's quality, timeliness, e-government, and efficiency targets for the past several years. For example, the expansion of the Trademark telework program in 2003 coincided with – and facilitated - the USPTO's e-government efforts to replace paper files with an electronic system. Telework can help Federal agencies provide accommodation options for individuals with disabilities. Additionally, our telework initiatives help us fulfill continuity-of-operation requirements in case of a future threat or disaster.

Telework has obvious benefits for the country and community. Telework means reduced auto emissions that contribute to air pollution, less gas consumption, and reduced traffic congestion. Based on 1,130 USPTO employees working remotely 4 days per week, the USPTO estimates a savings of 372,000 gallons of gas with a reduction in emissions of 5,855 tons per year. Additionally, this is saving USPTO employees approximately \$952,000 in gas costs each year.

Proposed Test Program

The USPTO has informally submitted to Congress and this Subcommittee legislation that would allow GSA to approve travel expense test programs for agencies to test new and innovative methods of reimbursing travel expenses and giving employees more choices of where to live. Outside of the Washington, D.C. metropolitan area, the USPTO has teleworking employees residing in Pennsylvania, New York, Illinois, North Carolina, South Carolina, Georgia, Colorado, Texas, West Virginia, and Delaware. These

employees voluntarily requested to live and telework outside the local commuting area. However, they are required to report to the office at least once per week to maintain the official duty station at USPTO headquarters (and to receive the locality pay for Washington, DC). Maintaining DC as the duty station for these employees allows USPTO to avoid placing these employees on travel status, which would entitle them to reimbursement for their travel expenses and also to travel during official working hours. USPTO is concerned that placing these persons on travel status, as required under current statutes, would reduce their time doing productive work as well as increase travel costs above the amounts currently budgeted. The pilot program would allow employees to maintain their homes as their official duty stations and only commute when their job requires them to do so.

Virtual Art Unit

At the USPTO, we continually explore innovative methods and unique combinations in order to determine the most efficient and effective approach tailored specifically to suit the needs of each business unit. In April 2007, the USPTO began a Virtual Art Unit Pilot where 13 patent examiners and their supervisor began hoteling. Thirty-seven non-participating examiners within the art unit remained on the USPTO campus.

Production among pilot participants increased by approximately 10% which is similar to what we have found for our patent hotelers. In addition, pilot participants roughly doubled the amount of overtime worked in previous years. Random quality reviews showed that there was no significant difference in the quality of work performed by the

Virtual Art Unit participants when compared to non-participants. Surveys were administered to both participants and non-participants within the art unit. The participants were all satisfied with the pilot, indicated high levels of job satisfaction, rated their equipment and tools at home as Good or Excellent, and all indicated a desire to continue with the Virtual Art Unit concept. Two-thirds of the non-participants indicated there was no change or they experienced an actual increase in access to the Virtual Art Unit examiners.

Remote Meetings and Training

In July of this year, our Trademark organization hosted an interactive web cast of an all-hands meeting, a first for the USPTO. Trademark employees who telework had the option of either coming in to the office for the meeting or signing on remotely, and 207 of them took the remote option. The web cast was interactive and allowed viewers to submit questions, with most of the questions coming from the hotelers. According to an on-line survey taken after the meeting, almost 95% of off-site participants rated the meeting as excellent or good. Employees also provided many useful suggestions that Trademarks plans to use for future meetings.

In addition, in April 2007, the Supreme Court decided *KSR Int'l Co. v. Teleflex Inc.*, dealing with the standard for obviousness under 35 U.S.C. § 103. The USPTO provided training to the entire patent examining corps on the ramifications of the Court's decision.

Our patent hotelers were given the option to come into the office for training or train from home. Hundreds of our patent hotelers opted to train remotely.

National Workforce

The USPTO's future lies in developing a national workforce where some of our employees work full-time at headquarters, some telecommute one day a week, some hotel, and some live outside of the metropolitan area and rarely come to headquarters. We are developing a full range of telecommuting and remote collaboration tools to allow employees to work as effectively from home as they do in the office. By expanding our concept of an "Office" in this way, the USPTO will leverage the potential of the digital age to allow our workplace to best serve our employees. This strategy will help us hire the best and brightest employees from outside the Mid-Atlantic Region, retain employees in a highly competitive market, and minimize real estate costs associated with workforce expansion.

Conclusion

A successful telework program can result in greater employee productivity, higher levels of sustained performance, reduced traffic congestion and air pollution, and reduced real estate costs. In addition, telework provides options for individuals with disabilities, assists agencies with their recruitment and retention efforts, helps to reduce gasoline expenses, and provides agencies with continuity of operations in case of a future threat or disaster. Teleworking can greatly improve the quality of life and morale for employees by

reducing their commuting time and costs, giving them more control over their schedules, and assisting them in achieving a balance between work and their personal lives and family.

The USPTO has demonstrated that telework is a business strategy that works for our employees, our agency, and the American public. We appreciate this opportunity to testify before the Committee and look forward to working with you closely during the 110th Congress on this important issue.