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September 1, 2016

The Honorable Michelle K. Lee
Under Secretary of Commerce for Intellectual Property
and Director of the USPTO
United States Patent and Trademark Office
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Dear Director Lee:

The Inspector General (IG) of the U.S. Department of Commerce recently issued a report relating to time and attendance by Patent Examiners working for the U.S. Patent and Trademark Office (PTO). The IG's report contained a detailed analysis of the claimed work hours of more than 8,400 examiners over a 15-month period. The IG concluded, using a conservative approach, that there was no support for 288,479 hours of work, which equates to the potential waste of \$18.3 million. This report follows an IG report from August 2015 that identified extensive time and attendance abuse by one examiner that resulted in excess payments of \$25,500 for work that was not completed.

We sent you a letter in August 2014, following two IG reports and press accounts about an internal investigation of the supervision and management of patent examiners who reportedly misrepresented their work hours and were paid for work they did not do. In your response to our questions in that letter, you provided information about the verification of teleworkers' hours worked. You also identified improvements that had been made to the telework program. The new IG report raises additional concerns about potential time and attendance abuse that appear to go beyond the scope of the telework program.

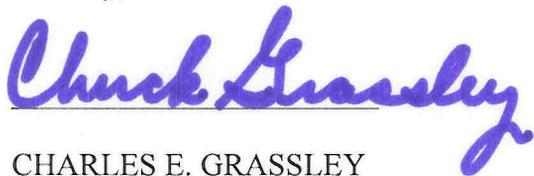
The PTO plays an essential function in our economy, promoting innovation and supporting our Nation's economic growth. The PTO's telework program and other staff management innovations have long been cited as a model of increased work flexibility in the federal government. The agency repeatedly points to these programs as integral to attracting the specialized workforce necessary to fulfill the agency's statutory mandates. We are confident that you share our belief that concerns about time and attendance at the PTO must be taken seriously, and that any potential abuses are addressed.

Please answer the following questions and provide relevant documents:

1. What controls are in place to ensure patent examiners provide accurate time and attendance records?
2. What steps, if any, has PTO taken to prevent and investigate time and attendance abuse? What steps, if any, has PTO taken to address time and attendance abuse after it is discovered?
3. How are the issues raised in the IG report related to those issues examined by the PTO in its internal investigation of the supervision and management of patent examiners, about which we wrote to you in September 2014?
4. How does the PTO intend to use the IG report, underlying data, and methodology to improve its workforce management efforts moving forward?

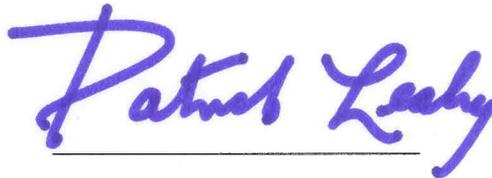
Please provide the response to our questions by September 16, 2016. Contact Jonathan Nabavi (Grassley) or Garrett Levin (Leahy) with any questions regarding this request. We appreciate your attention to this matter.

Sincerely,



CHARLES E. GRASSLEY

Chairman



PATRICK LEAHY

Ranking Member