



March 17, 2025

Mr. Howard Lutnick  
Secretary of Commerce  
U.S. Department of Commerce  
1401 Constitution Ave NW  
Washington, DC 20230

Dear Secretary Lutnick,

I am writing on behalf of the National Association of Patent Practitioners (NAPP), a nonprofit trade association representing hundreds of patent practitioners across the United States and around the globe. Our membership—composed primarily of patent attorneys and agents—frequently interact with the United States Patent and Trademark Office (the “USPTO” or the “Office”) and are thus familiar with the critical role the Office plays in fostering innovation, securing intellectual property rights, promoting investment, driving the US economy, and sustaining the nation's leadership in technology. NAPP regularly advocates for a strong patent system before the USPTO, Congress, and the Courts. As daily users of the USPTO systems and procedures, NAPP frequently works with USPTO management to ensure efficient and superior patent practice.

Today, I wish to advocate for policies that protect the USPTO's longstanding practices, particularly those relating to its Examiner workforce.

The USPTO is at the heart of our nation’s innovation ecosystem. By granting patents, the Office rewards ingenuity and provides inventors with the legal protection necessary to secure returns on their creative endeavors. This protection not only encourages inventors to bring forward new ideas but also assures companies and investors that their financial commitments in technology development are safeguarded by enforceable rights. Patents, therefore, are a vital engine of economic growth—they spur investment in new technologies, drive research and development, create jobs, and help maintain America’s competitive edge in the global marketplace. ShareAmerica values the collection of US patents at over \$3 trillion (as contrasted with about \$0.5 billion for the Chinese patent collection).<sup>1</sup>

The USPTO is a self-funded agency that receives over 600,000 new patent applications every year.<sup>2</sup> The substantial majority of the USPTO's workforce are highly qualified Patent Examiners (“Examiners”, including Supervisory Patent Examiners (“SPEs”)) hired to evaluate those patent applications. These professionals are not only required to hold at least a degree in science, technology, engineering, mathematics, or design but also to undergo 6–12 months of intensive legal training upon hire. Further, Examiners must be able to efficiently review the applications, search the technical literature for comparisons, and to report their findings in a precise yet clear, consistent manner. These Examiners thus possess rigorous, specialized legal and subject matter expertise and skills that are unique to the USPTO’s Patent Examiner corps. Expertise and skills that only grow stronger through experience working with other Examiners, inventors, applicants, and patent practitioners.

This substantial investment in Examiner development underscores the USPTO’s commitment to excellence but also makes Examiner turnover exceedingly costly. Indeed, Examiners’ unique combination of training, skills, and experience is also heavily in-demand within private industry; this makes it even more difficult for the USPTO to hire and retain necessary personnel.<sup>3</sup> Maintaining a stable, experienced Examiner workforce is essential to preserving the integrity and efficiency of the patent system that fuels our economy.

The Office manages its Examiners using a well-vetted quota system—refined over decades of USPTO operations and continuously optimized to meet the demands currently placed upon the USPTO—which has consistently assured both high quality examination and high productivity among the Office’s Examiners. Coupled with a nationwide recruitment strategy, this system has enabled the Office to hire professionals from across the country—often from technology centers rich in specialized expertise. Recognizing that Washington, D.C. is not the optimal location for sourcing top technical talent, the USPTO’s deliberate strategy to recruit remotely has been instrumental in building and sustaining its competent Examiner corps.

Moreover, the USPTO has been a pioneer in flexible work arrangements since 1997<sup>1</sup>. By enabling Examiners, including SPEs to work remotely (often referred to by the Office in annual reports and other documents as “telework”), the Office has not only attracted a geographically diverse and highly qualified workforce but also ensured operational resilience. Recent proposals aimed at eliminating remote work arrangements threaten to disrupt this delicate balance at a time when the backlog of unexamined patent applications exceeds 800,000 and continues to grow.<sup>4</sup> Curtailing remote work will not improve this backlog, and instead could impede the USPTO’s ability to attract and retain top-tier professionals, further exacerbating delays and stifling investments in the innovation that underpins our economy.

Many Examiners are covered by an existing collective bargaining agreement (“CBA”) that currently guarantees their ability to continue to engage in telework. However, that CBA is not indefinite and will be up for renegotiation very soon. NAPP strongly believes that existing telework protections must be maintained into the future and past the expiration of the current CBA to preserve and improve upon USPTO Examiners’ current level of competency and productivity. Already, NAPP’s practitioner members have received anecdotal reports of return to office (RTO) mandates impacting previously teleworking Examiners not covered by the CBA (e.g., SPEs), some of whom have experienced impacts to productivity and other hardships due to being geographically distant from a USPTO facility, and others of whom have decided to retire early, diminishing the collective experience and expertise of the Office’s senior Examiners and other leaders. This loss of managerial expertise and leadership is alarming to NAPP and our practitioner members, and NAPP fervently encourages that USPTO policies be adjusted to curtail such losses and maintain and grow the Office’s productivity and reputation for excellence.

At a time when the United States must remain at the forefront of technological advancement, it is imperative that the USPTO be allowed to operate with the flexibility and autonomy that have historically enabled the Office’s success. Disruptions to the Examiner workforce—even temporary ones—can have

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<sup>1</sup> Dennis Crouch (January 28, 2025). USPTO’s Remote Work Program Faces Potential Rapid Dismantling Under New Federal Guidelines. Retrieved January 29, 2025 from <https://patentlyo.com/patent/2025/01/potential-dismantling-guidelines.html>.



far-reaching consequences for inventors, startups, and established companies alike. We respectfully urge you to consider the long-term implications of policies that undermine the USPTO's independence and its capacity to recruit, train, and retain its Examiners. We respectfully urge you to support measures that preserve the remote work arrangements and Examiner-friendly practices vital to the Office's performance.

Thank you for your time and consideration of this important matter. We stand ready to provide any additional information you may require and welcome the opportunity to discuss further how legislative support can safeguard the USPTO's mission and, by extension, the innovation landscape of our nation.

Sincerely,

A handwritten signature in blue ink, appearing to read "R. Baker, Jr.", is positioned below the word "Sincerely,".

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Cc: Coke Stewart, Acting Under Secretary of Commerce for Intellectual Property & Acting Director of the United States

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<sup>1</sup> Patents Production, Unexamined Inventory and Filings Data December 2024. Retrieved January 29, 2025, from <https://www.uspto.gov/dashboard/patents/production-unexamined-filing.html>.

<sup>2</sup> United States Patent and Trademark Office, FY 2024 Workload Table. Retrieved January 29, 2025, from <https://www.uspto.gov/about-us/performance-and-planning/uspto-annual-reports>.

<sup>3</sup> Statement of Robin M. Nazzaro, Director Natural Resources and Environment (2008, February 27). Hiring Efforts Are Not Sufficient to Reduce the Patent Application Backlog. GAO-08-527T. Retrieved January 29, 2025 from <https://www.gao.gov/assets/gao-08-527t.pdf>

<sup>4</sup> Patents Production, Unexamined Inventory and Filings Data December 2024. Retrieved January 29, 2025, from <https://www.uspto.gov/dashboard/patents/production-unexamined-filing.html>.