Examination Time and the Production System

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Deputy Commissioner for Patent Operations
What do Examiners need to balance?

- **Production**
  - How many office actions / period of time

- **Workflow (Docket Management)**
  - Completing those actions within expected timeframe

- **Quality**
  - Quality of those actions
Examiner Performance Appraisal Plan

Examiners’ performance rating depends on balancing all of these, and more:

- 35% Productivity
- 35% Quality
- 20% Workflow (Docket Management)
- 10% Stakeholder Interaction
Examiner Dockets have Competing Priorities

Which cases to work on? How many cases? When?
Production System: Counts Awarded Throughout Prosecution

1st action on merits: 1.25 counts
2nd non-final: 0 counts
Final rejection: 0.25 counts
Allowance disposal: 0.75 counts
Appeal disposal: 0.75 counts

2.0 counts
Production Goals

• Production goals expected for examiners depend on several factors:
  o “Examining Hours” per accounting periods
    o Every two weeks
    o Every quarter
    o Every Fiscal Year
  o Technology complexity
  o Seniority
Production Goals: Examining Hours

**Includes**
- All major examination activities
  - Reviewing the application
  - Analyzing the claims
  - Searching the prior art
  - Considering prior art
  - Consulting with colleagues
  - Writing office actions
  - Addressing applicant’s responses

**Excludes**
- Leave and holidays
- Training
- Staff meetings
- Programs where examiners receive additional time (AFCP2.0, QIPIDS, etc.)
Production Goals: Technology and Seniority

- The **Technology Complexity** of an application designates the amount of time the examiner is given.

- The **seniority** influences expected production; senior examiners are expected to produce more work than junior examiners.

<table>
<thead>
<tr>
<th>Technology</th>
<th>Production Goals</th>
</tr>
</thead>
<tbody>
<tr>
<td>Satellite communication</td>
<td>27.7 hours/BD</td>
</tr>
<tr>
<td>Fishing lures</td>
<td>16.6 hours/BD</td>
</tr>
<tr>
<td>Immunotherapy</td>
<td>25.9 hours/BD</td>
</tr>
</tbody>
</table>

- There are as many as nine different levels of seniority
Production Goal Calculation: Expected Production Units For 100% of Goal

\[
\frac{(\# \text{ of Examining Hours}) \times (\text{Seniority Factor})}{(\text{Technology Complexity})} = \text{"X" BDs* Needed For 100% of Goal}
\]

*BD is "Balanced Disposal" or "Production Unit" and equals 2 Counts
Example: 100% Bi-Weekly Production Goal for GS-7, GS-12 and GS-14 Examiners:

All three examiners have the same number of examining hours (72) and the same GS-12 Technology Complexity (16.6 hours/BD):

<table>
<thead>
<tr>
<th>Examinee</th>
<th>Hours Multiplier</th>
<th>Total Counts</th>
</tr>
</thead>
<tbody>
<tr>
<td>GS-7:</td>
<td>$\frac{72 \times 0.7 \times 2}{16.6}$</td>
<td>6.1 Counts</td>
</tr>
<tr>
<td>GS-12:</td>
<td>$\frac{72 \times 1.0 \times 2}{16.6}$</td>
<td>8.7 Counts</td>
</tr>
<tr>
<td>GS-14:</td>
<td>$\frac{72 \times 1.35 \times 2}{16.6}$</td>
<td>11.7 Counts</td>
</tr>
</tbody>
</table>
Examiners balance multiple priorities

• In addition to completing work to meet production requirements, examiners must do their work in a timely manner.

• Workflow (Docket Management) system aligns examiner priorities with statutory requirements.
Workflow (Docket Management System)

- Provides an objective measure of the timeliness and flow of patent applications through the examination process in accordance with prescribed time periods that are set by Office policy.
- Each application filing falls into one of five categories, each with an associated clock.
- Each category has its own “expected average days” for completion.
- Uses the same percentage scale as Production.
Docket Management Scores - General

• Fewer days to action = Higher Score

• Meeting expected average days (EAD) (par) = 100% score
• Above (more days than) EAD (par) < 100%
• Below (fewer days than) EAD (par) > 100%
Summary