

INVESTMENTS BY PATENT EXAMINERS

2021

ETHICS GUIDANCE

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If you are a patent examiner in the United States Patent and Trademark Office (USPTO), you must be careful to avoid any conflict of interest when making investments. These rules apply regardless of grade level, final sign-off authority, or whether or not you are required to file a financial disclosure report.

Patent Interests – USPTO employees cannot apply for a patent or acquire, directly or indirectly, any right or interest in a patent issued by USPTO (except by inheritance).

Securities – Any investment in publicly-traded securities of a company of more than \$15,000 or in a group of affected companies of more than \$25,000 will require you to disqualify yourself from working at USPTO on anything that will affect the company's financial interest. (Disqualification is required regardless of value if the stock or interest is not traded on a U.S. exchange.) You should not make investments that will trigger a disqualification that will interfere with your ability to perform your USPTO duties. Based on this rule, you may not invest in closely-held companies or in publicly-traded securities of more than \$15,000 in any one company and more than \$25,000 total in stock in the industry sector in which you review patents. This is because every company that manufactures or markets devices or processes similar to those that are the subject of the application has an interest in the application. Therefore, if you have an interest in any company that manufactures devices or markets processes covered by your art unit, you will be subject to a disqualification regarding all patent applications in the art unit unless the value is below \$15,000 for any one company and less than \$25,000 for all companies.

Mutual Funds – Holdings in broadly-diversified mutual funds (if publicly traded on a U.S. exchange) do not trigger a disqualification; therefore, such investments are always permissible. However, investments of greater than \$50,000 in a sector-specific fund—one whose investment strategy is focused on a particular industry sector, state, or foreign country—do impose a disqualification requirement, so you should limit your investments in such funds to less than \$50,000 or to funds not focused on an industry sector related to your duties.

Use of Inside Information – You may not use non-public Government information when making investment decisions.

For advice on these rules, contact the Ethics Law and Programs Division at
202-482-5384 or ethicsdivision@doc.gov.

Ethics Office – Office of General Counsel – U.S. Department of Commerce
202-482-5384 – ethicsdivision@doc.gov – www.commerce.gov/ethics – January 4, 2021