United States Patent and Trademark Office
Office of the General Counsel

October 14, 2025

VIA EMAIL
Mr. Randy Landreneau
U.S. Inventor
17440 Dallas Parkway
Dallas, TX 75287
rlinventor@protonmail.com

RE: ***Freedom of Information Act (FOIA) Request No. F-25-00430***

Dear Mr. Landreneau:

This letter is in response to your July 2, 2025 FOIA request seeking data on PPH applications claiming the benefit of allowable claims from the five originating Offices of Earlier Examination (OEE), CNIPA (China), EPO (Europe), JPO (Japan), KIPO (Korea), and the USPTO:

1. For each such application during the Fiscal Years 2021-2025, provide by originating OEE and by USPTO Working Group (e.g. Group 2660) the following:

(a) US application serial number;
(b) US Pat. No. (if issued);
(c) US filing date;
(d) Priority date to which benefit is claimed;
(e) Invention title;
(f) Assignee name;
(g) OEE decision date (on allowable claims);
(h) PPH petition date;
(i) PPH Decision date;
(j) US Patent issue date (if issued);
(k) Application Abandonment date (if abandoned); or otherwise
(m) Indication if application is still in "pending" status.

2. For the Fiscal Years 2006-2025, provide the filing date, by OEE, and by USPTO Working Group:

(a) The number of PPH petitions that were ultimately (i) dismissed, (ii) denied, (iii) granted; (i.e., not counting separately amended or repeat PPH petitions in the same application);
(b) The number of PPH applications that were (i) allowed, (ii) allowed on First Action (iii) Abandoned; and (iv) still pending;
(c) The average pendency (in days) for the periods of (i) PPH petition to PPH

decision (ii) PPH decision to First Action On Merits (iii) PPH decision to Allowance (iv) PPH decision to Abandonment;

3. All quality assurance reports, statistics, surveys and/or audits that were conducted to assess the operation of the PPH and/or verify that requirements for entry into the PPH have been met.

The USPTO has conducted a reasonable search for information related to your request and has identified two Excel spreadsheets and a PPT file. A copy of the material is enclosed. Portions of the material, however, were withheld pursuant to FOIA Exemption 6. With regard to Item 3 of your request, quality information related to the PPH is largely contained within the performance evaluations of individual employees and is therefore withheld in full under Exemption 6 (described in more detail below). However, some PPH statistics are contained within the provided PPT file and others are publicly available and are available at:

https://www.jpo.go.jp/e/toppage/pph-portal/statistics.html

CY_2024_PPH_Statistics_Data.pdf

https://www.uspto.gov/dashboard/patents/petitions.html

IP5 Patent Prosecution Highway (IP5 PPH) | fiveIPoffices

With regard to Item 1(g), this information is not able to be retrieved in an automated way. More specifically, although this data is present on the PPH petition form, the USPTO does not electronically capture it and therefore it is not provided because to do so would require research and creation of a record. Courts have consistently held that FOIA requests apply to existing records only, and that agencies are not required to create records in response to FOIA requests. *See, e.g., Carson v. Office of Special Counsel*, 534 F. Supp. 2d 99, 102 (D.D.C. 2008) ("The FOIA does not require an agency to create documents that do not exist or to collect disparate data and then generate an agency record.") Moreover, agencies are not required to conduct research to fulfill FOIA requests. *See Hudgins v. Internal Revenue Serv.*, 620 F. Supp. 19, 21 (D.D.C. 1985), *aff'd mem.*, 808 F.2d 137 (D.C. Cir. 1987).

Exemption 6 requires the withholding of "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." 5 U.S.C. § 552(b)(6). The term "similar files" has been broadly construed to cover "detailed Government records on an individual which can be identified as applying to that individual." *Dep't of State v. Washington Post*, 456 U.S. 595, 601 (1982). Information that applies to a particular individual meets the threshold requirement for Exemption 6 protection. *Id*. The privacy interest at stake belongs to the individual, not the agency. *See Dep't of Justice v. Reporter's Comm. for Freedom of the Press*, 489 U.S. 749, 763-65 (1989). Exemption 6 requires a balancing of an individual's right to privacy against the public's right to disclosure. *See Dep't of the Air Force v. Rose*, 425 U.S. 352, 372 (1976); *Multi Ag Media LLC v. Dep't of Agric.*, 515 F.3d 1224, 1228 (D.C. Cir. 2008).

Here, PPH quality information in individual employee performance files (sought in Item 3 of your request) is sensitive information in which employees have a legitimate privacy interest. The burden is on the requester to establish that disclosure of this information would serve the public interest. *See Bangoura v. Dep't of the Army*, 607 F. Supp. 2d 134, 148-49 (D.D.C. 2009). When balancing the public interest of release against individual privacy interest, the Supreme Court has made clear that information that does not directly reveal the operations or activities of the federal government falls outside the ambit of the public interest. *See Reporters Comm.*, 489 U.S. at 775. The withheld information does little to shed light or contribute significantly to public understanding of the operations or activities of the USPTO. Your FOIA request does not assert a public interest that outweighs the privacy interest, nor is one otherwise evident. As such, the FOIA dictates that the information be withheld.

As required by the FOIA Improvement Act of 2016 and Department of Justice guidance, USPTO has conducted a foreseeable harm review and reasonably foresees that disclosure of the withheld material would harm an interest protected by a FOIA exemption.

You may contact the FOIA Public Liaison at 571-272-7000 for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

You have the right to appeal this initial decision to the Deputy General Counsel, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450, or you may submit an appeal electronically to FOIARequests@USPTO.gov. An appeal must be received within 90 calendar days from the date of this letter. The appeal must be in writing. You must include a copy of your original request, this letter, and a statement of the reasons why the information should be made available and why this initial decision is in error. If you submit your appeal by mail, both the letter and the envelope must be clearly marked "Freedom of Information Appeal."

Sincerely,

Traci Alexander

Traci Alexander
USPTO FOIA Officer
Office of General Law