US INVENTOR
Innovators, Inventors, Dreamers, and Builders

January 4, 2026

FREEDOM OF INFORMATION APPEAL

VIA ELECTRONIC MAIL (foiarequests@uspto.gov)

Office of the General Counsel
United States Patent and Trademark Office
Madison Building East, Room 10B20
600 Dulany Street
Alexandria, VA 22314

Re: Appeal of Decision on Freedom of Information Act Request No. F-25-00430

US Inventor, Inc. (USI), a not-for-profit § 501(c)(4) corporation, hereby appeals under the Freedom of Information Act (FOIA), 5 U.S.C. § 552(a)(6), the Patent and Trademark Office's (USPTO) decision of October 14, 2025, on USI's FOIA Request No. F-25-00430.

I. BACKGROUND

1. USI submitted the FOIA request on July 2, 2025, seeking records from the USPTO as the Office of Later Examination (OLE) in the Patent Prosecution Highway (PPH). Records sought were on applications claiming the benefit of allowable claims from the five originating national Offices of Earlier Examination (OEE), (the "Request"). The Request also sought a public interest fee waiver determination. Attachment 1.
2. The USPTO acknowledged receipt of USI's Request on July 7, 2025, designating it as "FOIA Request No. F-25-00430," and stated that it "will make every effort to provide a response within 20 working days" and that USI "will be notified if unusual circumstances require an extension to complete the processing of your request." Attachment 2.
3. The USPTO failed to meet its promise above, and failed to meet the FOIA deadlines for response and notice under 5 U.S.C. § 552(a)(6). In belated communications of September 4 and 22, 2025, the USPTO continued to delay. On September 22, 2025, the Office promised "to send over documents for review by the end of next week," which was October 3, 2025. That day had come and gone without any USPTO response. Attachment 3.
4. Only on October 14, 2025, did the USPTO respond to the Request by email in a letter that it called "initial decision" (the "Decision"). Two Excel workbooks and a PowerPoint presentation were attached to the Decision, containing information responsive only to certain elements of the Request. However, the Decision withheld disclosure of other nonexempt responsive records, including OEE identifications, and quality assurance (QA) information that was *withheld in full* purportedly under Exemption (b)(6) of the FOIA. The USPTO did not even release segregable redacted records on PPH QA. Attachment 4.
5. USI's Request fully complied with USPTO FOIA regulations in 37 C.F.R. § 102.4; the records requested were nonexempt, and were described in sufficient detail to enable USPTO personnel to locate them with a reasonable amount of effort. USI now appeals the

USPTO's withholding of the requested information. This appeal is timely pursuant to 5 U.S.C. § 552(a)(6)(A)(i)(III)(aa).

II. THE USPTO FAILED TO MEET THE FOIA DEADLINE

6. The USPTO failed to provide its written determination within the FOIA time limit set forth in 5 U.S.C. § 552(a)(6)(A)(i). The Office provided no written notice to USI extending time for "unusual circumstances" pursuant to § 552(a)(6)(B)(i). Instead, The USPTO provided its initial determination only on October 14, 2025, substantially later than the 20-business-day deadline plus 10-business-day extension due to "unusual circumstances" for agency compliance with the FOIA. The USPTO was *already* in violation of the FOIA deadline as of its communications of September 4, and 22, 2025, and failed to provide its final determination as required under § 552(a)(6)(A)(i).

III. THE USPTO UNLAWFULLY WITHHELD RESPONSIVE RECORDS

III.1 Office of Earlier Examination (OEE) information

7. In Request 1, USI asked for "each such application entering the PPH at the USPTO during the Fiscal Years 2021-2025" to provide the application details "*by originating OEE."* Request 2 similarly sought for "the Fiscal Years 2006-2025" to provide application details "*by OEE."* Attachment 1. However, neither spreadsheet with the details of the PPH applications produced in response to these two requests contained the identity of the OEE for PPH applications. Conspicuously missing from these responsive spreadsheets is a column for identifying the "OEE" for each application or categories of applications. The Decision failed to mention, let alone provide an explanation for withholding these records.

8. This improper omission of nonexempt OEE information was despite the USPTO's control of this information for each PPH application, as evidenced by the annual tallies of the number of PPH applications *by each OEE* shown in Slides 4 and 7 of the PowerPoint presentation the USPTO produced here. Incorporating in USPTO's search "by OEE" the discrete pieces of OEE information for each application and including it in the spreadsheets *does not* amount to creating "new records." *See Ctr. for Investigative Reporting v. U.S. Dep't of Justice*, 14 F.4th 916, 938 (9th Cir. 2021) (Holding that "using a query to search for and extract a particular arrangement or subset of data already maintained in an agency's database does not amount to the creation of a new record."); *Schladetsch v. HUD*, No. 99-0175, 2000 WL 33372125, at *3 (D.D.C. Apr. 4, 2000) (Because agency "possesses in its databases the discrete pieces of information which [plaintiff] seeks, extracting and compiling that data does not amount to the creation of a new record."); *Long v. CIA*, No. 15-1734, 2019 WL 4277362, at *4-5 (D.D.C. Sept. 10, 2019) (Rejecting agency argument that "writing new computer code to locate responsive records in its database" is "creation of a new record.") The USPTO must produce the two Excel workbooks with the nonexempt OEE information included.

III.2 Quality Assurance Information on the implementation of the PPH Program

9. Request 3 sought "copies of 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." Attachment 1. The Decision dissembles by mischaracterizing this request as seeking "quality information *in individual employee*

performance files" and invokes Exemption (b)(6) on privacy as justification for avoiding *any* disclosure. However, Request 3 does *not* seek *individual* employee data. It seeks "quality assurance reports, statistics, surveys and/or audits" reported *in the aggregate* to "assess the operation of the PPH" program *as a whole*.

10. The PPH program involved more than 115,600 petitioned applications for entry into this unique USPTO process. In each such petitioned application, USPTO examiners must make a determination whether the PPH petition is grantable so as to confer on the applicant substantial financial and procedural benefits for prioritized examination at the expense of all other regular applicants. Unlike regular application examination, granting entry to the PPH program requires the satisfaction of various conditions that USPTO examiners *must verify* by expert determinations, including on matters decided by the foreign EEO.

11. One must therefore presume the existence of QA audits of the PPH program to assess any errors in processing and granting such petitions, and to ensure that all verification steps are performed correctly. This is particularly so given the program involves a large number of applications and that granting such petitions in error comes at the expense of *all* other applicants. It is such responsive and nonexempt records that Request 3 seeks. Just as the USPTO's other examination quality reports based on sample Office actions do not contain the identity of examiners, so should not any QA audits of the PPH process contain such employee identifications.

12. To the extent that any such QA performance reports, surveys, or audits contain appendices or attachments with sample PPH petition decisions that identify the deciding USPTO employees, that identifying information—*and that information alone*—may be redacted under Exemption (b)(6). In other words, even if a responsive record contains exempt information, the USPTO must release "[a]ny reasonably segregable portion of a record … after deletion of the portions which are exempt under this subsection." 5 U.S.C. § 552(b).

IV. CONCLUSION

The USPTO withheld nonexempt information by willful evasion of clear definitions and by mischaracterization of USI's requests. This clearly raises "questions whether agency personnel acted arbitrarily or capriciously with respect to the withholding." § 552(a)(4)(F)(i). The USPTO must promptly release in full all responsive nonexempt information requested by USI.

Thank you for your consideration and review.

Sincerely,



US INVENTOR
Randy Landreneau, President
P.O. Box 2273,
Clearwater, FL 33757
rlinventor@protonmail.com
727-744-3748

ATTACHMENT 1

USI FOIA request sent July 2, 2025

US INVENTOR
Innovators, Inventors, Dreamers, and Builders

June 28, 2025

VIA ELECTRONIC MAIL FOIARequests@uspto.gov; efoia@uspto.gov

USPTO FOIA Officer
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Re: US Inventor Freedom of Information Act Request Regarding the Patent Prosecution Highway

Dear FOIA Officer:

US Inventor, Inc., a not-for-profit § 501(c)(4) corporation, hereby requests under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, the following records from the U.S. Patent and Trademark Office (USPTO or Office) regarding the Patent Prosecution Highway (PPH).

Please provide the following records on the USPTO **as the Office of Later Examination (OLE)**, the 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 entering the PPH at the USPTO 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, please provide by the Fiscal Year of 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. Please provide copies of 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. While Requests 1-2 above are limited to applications originating in the five OEEs listed above, for avoidance of any doubt, this instant request is for any responsive records without limiting the OEEs involved.

Definitions:

"Records" are defined at 44 U.S.C. § 3301, and per 5 U.S.C. § 552(f)(2), include "any information that would be an agency record subject to the requirements of [FOIA] when maintained by an agency in any format, including an electronic format." The terms "and" and "or" shall be construed both conjunctively and disjunctively.

Public Interest Fee Waiver

Because records requested herein were identified explicitly and may be readily located within USPTO datasets without undue search burden, US Inventor anticipates that no fees should be assessed. However, in the event that the Office intends to assess fees for this request, US Inventor requests a public interest fee waiver because *it has no commercial interests* and the requested records directly concern and bear upon the USPTO's operations and activities. The public has a compelling interest in knowing how US and foreign patent applicants are treated in processing their applications under the PPH, given its benefits in prioritizing the examination of such applications out of turn at no extra fees.

Upon receipt, US Inventor will make these records and their analysis publically available on our website at https://usinventor.org/ptab-foia-documents for use by our members, journalists, scholars, students, and interested members of the public at no charge. We also use the information in reports, educational videos (https://www.youtube.com/@USInventor), newsletters (which can be subscribed to at https://usinventor.app.neoncrm.com), and other public disseminations to advance our educational mission. Therefore, disclosure of the requested information "is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester,"[1] a 501(c)(4) corporation.

[1] 5 U.S.C. § 552(a)(4)(A)(iii).

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Innovators, Inventors, Dreamers, and Builders

U.S. Inventor asks to receive the responsive documents in their electronic native Excel spreadsheet format that preserves all data integrity, by email, to rlinventor@protonmail.com.

We may be reached at the address below, if you have any questions.

Respectfully submitted,



US INVENTOR

Randy Landreneau
President
P.O. Box 2273,
Clearwater, FL 33757

rlinventor@protonmail.com
727-744-3748

ATTACHMENT 2

USPTO acknowledged on July 7, 2025, receipt of Request No. F-25-00430

United States Patent and Trademark Office
Office of the General Counsel

July 7, 2025

VIA EMAIL

Mr. Randy Landreneau
U.S. Inventor
17440 Dallas Parkway
Dallas, TX 75287

Dear Mr. Landreneau:

Your Freedom of Information Act (FOIA) and/or Privacy Act request was received by the United States Patent and Trademark Office (USPTO) FOIA Office on **July 2, 2025.**

Your request has been docketed as "**FOIA Request No. F-25-00430."** Any further inquiries regarding your request should include that number. A copy of your request is attached for reference.

In the event your original request was incorrectly addressed, please address all inquiries regarding your request to:

FREEDOM OF INFORMATION ACT (FOIA) OFFICER
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Or via email to foiarequests@uspto.gov

The Agency will make every effort to provide a response within 20 working days. You will be notified if unusual circumstances require an extension to complete the processing of your request. You may check on the status of your request AFTER THE APPLICABLE 20 OR 30 DAY PROCESSING TIMEFRAME by sending an email to foiarequests@uspto.gov with your request number.

Sincerely,

USPTO FOIA Office

Enclosure

ATTACHMENT 3

USPTO Communications of September 4 and 22, 2025

From: Traci.Alexander@uspto.gov <Traci.Alexander@uspto.gov>
Date: On Thursday, September 4th, 2025 at 10:40 AM
Subject: RE FOIA F-25-00430
To: rlinventor@protonmail.com <rlinventor@protonmail.com>
CC: traci.alexander@uspto.gov <traci.alexander@uspto.gov>

Dear Mr. Landreneau:
Processing on your request is ongoing. I have been out of the office due to illness and hospitalization off and on over the past month or so. I apologize for the inconvenience. Your request is a priority for me, and I assure you that I will have it complete as soon as possible.

Best Regards,

Traci Alexander
FOIA Officer
United States Patent and Trademark Office
Office of General Law

From: Alexander, Traci <Traci.Alexander@USPTO.GOV>
Date: On Monday, September 22nd, 2025 at 10:01 AM
Subject: Status Update for USPTO FOIA Request No. F-25-00430
To: rlinventor@protonmail.com <rlinventor@protonmail.com>
CC: Trujillo, Caitlin <Caitlin.Trujillo@uspto.gov>, Alexander, Traci <Traci.Alexander@USPTO.GOV>

Good morning Mr. Landreneau:

I have spoken with the business unit tasked with providing the response to your FOIA request. They have told me that they expect to be able to send over documents for review by the end of next week [October 3, 2025].

Your patience is appreciated.

Best Regards,

Traci Alexander
FOIA Officer
Office of General Law
571-272-4251

ATTACHMENT 4

PTO Decision, October 14, 2025

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