February 2, 2026

Randy Landreneau
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RE: Freedom of Information Act Appeal A-26-00010 (Appeal for Request No. F-25-00430)

Dear Mr. Landreneau,

This determination responds to your appeal in connection with your Freedom of Information Act ("FOIA") Request No. F-25-00430. The appeal, received by the United States Patent and Trademark Office ("USPTO" or "Agency") on January 5, 2026, has been docketed as FOIA Appeal No. A-26-00010.

FOIA Request and Response

Your FOIA request, dated June 28, 2025, sought three categories of information. In Item 1, you requested documents containing 12 listed data points on patent applications entering the Patent Prosecution Highway (PPH) at the USPTO during the Fiscal Years 2021-2025. Item 2 asked for data on PPH petitions filed in Fiscal Years 2006 through 2025. Item 3 sought "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 FOIA Officer responded to your request on October 14, 2025. You were provided with two spreadsheets and a PPT file that were responsive to Items 1 and 2. Concerning Item 3, the FOIA Officer explained that "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," but also noted that some of the requested statistical information was provided in the PPT file and other responsive statistical information is publicly available at sites she identified.

Appeal

Your appeal first complains that the response failed to meet the timelines established in the FOIA. You next complain that the USPTO unlawfully withheld responsive records, though in fact what you assert is that one data field was omitted from the otherwise responsive spreadsheet you were provided. Finally, you complain that the FOIA Officer failed to identify documents responsive to Item 3 which you presume must exist.

Timeliness

You are correct that this request was not answered within the timelines set forth at 5 U.S.C. § 552(a)(6)(A)(i). The USPTO regrets any inconvenience this may have caused you.

Withholding of Information

In your appeal, you note in Item 1 you asked for the twelve data points specified "*by originating OEE*." While it is not difficult to see the source of the confusion, I agree that a reasonable interpretation of your request is for 13 data fields rather than the 12 provided, the thirteenth being the Office of Earlier Examination (OEE). I have been advised that the custodian who generated the report is optimistic it can be generated again to include that information. Therefore, I am remanding this portion of the appeal to the FOIA Officer so she can provide you with the completed document once available.

Quality Data

I understand from your appeal that you are not disputing the adequacy of the information you were provided in response to Item 3. Instead, you presume that additional requested documents must exist. I therefore interpret this portion of your appeal as an allegation that the search conducted for documents responsive to Item 3 was not reasonable.

When responding to a FOIA request, an agency is required to conduct a search that is "reasonably calculated to uncover all relevant documents." *See Zavala v. Drug Enforcement Admin.,* 2010 WL 2574068, at *1 (D.C. Cir. June 7, 2010) (citing *Morley v. CIA,* 508 F.3d 1108, 1114 (D.C. Cir. 2007). An agency is not expected to take extraordinary measures to find requested records, but to conduct a search reasonably designed to identify and locate responsive documents. *Garcia v. U.S. Dep't of Justice,* 181 F. Supp. 2d 356, 366 (S.D.N.Y. 2002). An agency must search files likely to contain responsive materials. *Prison Legal News v. Lappin,* 603 F. Supp. 2d 124, 126 (D.D.C. 2009). The standard for the reasonableness of the search is "generally determined not by the fruits of the search, but by the appropriateness of the methods used to carry out the search." *Mosby v. Hunt,* No. 10-5296, 2011 WL 3240492, at* 1 (D.C. Cir. July 6, 2011) (quoting *Iturralde v. Comptroller of Currency,* 315 F.3d 311, 313-16) (D.C. Cir. 2003)).

You asked for copies of "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." In response to your request, the FOIA Officer contacted officials within the Office of the Commissioner for Patents requesting they identify likely custodians of any responsive documents within the organization. The Patents Office did identify likely custodians, who conducted searches designed to uncover responsive documents, and you were provided with the results. In response to your appeal, I initiated a second inquiry to the Patents Office. Responsible officials confirmed that they have no responsive documents other than what you were provided.

Because the Agency twice conducted a reasonable search that resulted in no responsive documents beyond what you were provided, your appeal is denied as to Item 3.

Final Decision and Appeal Rights

This is the final decision of the United States Patent and Trademark Office with respect to your appeal. You are advised you have the right to seek judicial review of this decision as provided in 5 U.S.C. § 552(a)(4)(B). Judicial review is available in the United States District Court for the district in which you reside or have a principal place of business, the United States District Court for the Eastern District of Virginia, or the United States District Court for the District of Columbia.

Additionally, as part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. You may contact OGIS in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
Room 2510
8601 Adelphi Road
College Park, MD 20740-6001
E-mail: ogis@nara.gov
Telephone: 202-741-5770
Toll-free: 1-877-684-6448

Sincerely,

Users, Shewchuk, David

Digitally signed by Users, Shewchuk, David
Date: 2026.02.02 10:18:46 -05'00'

David Shewchuk
Deputy General Counsel
Office of General Law