

April 16, 2021

Via e-mail

FOIA Officer  
Office of Inspector General  
U.S. Department of Commerce  
1401 Constitution Avenue, N.W.  
Washington, DC 20230

RE: Freedom of Information Request

Dear Sir or Madam,

I represent US Inventor, Inc. US Inventor is a national non-profit organization, with a mission of educating lawmakers, agencies, and courts on matters affecting inventors, and to participate in shaping and reforming those policies. US Inventor is committed to protecting the rights of citizen inventors and proponents of the patent system in order to “promote the progress of Science and the Useful arts[,]” as described in Article 1 of the Constitution. U.S. Const., art. 1, § 8, cl. 8. As a part of this mission, US Inventor works to inform its membership and the public about the official activities, rulemaking, and procedures of the USPTO, as well as public perception of the USPTO. US Inventor works to provide information about the activities of government officials at the USPTO, and to ensure the integrity of the USPTO. To advance its mission, US Inventor uses a combination of research, litigation, and advocacy. As part of its research, US Inventor uses government records made available to it under the FOIA.

I. Introduction and Definitions.

In that vein, this communication constitutes a request under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, submitted by US Inventor, Inc. (“US Inventor”) for records relating to a survey conducted by the OIG.

Our requests seek “records”, by which we mean all records or communications preserved in written or electronic form, including but not limited to: correspondence, documents, data, videotapes, audio tapes, emails, faxes, files, guidance, guidelines, evaluations, instructions, analyses, memoranda, agreements, notes, orders, policies, procedures, protocols, reports, rules, training materials, other manuals, or studies.

By “OIG” we mean the Office of the Inspector General and its agents and employees as well as any other federal, state, or local agencies working in collaboration with the Office of the Inspector General.

## II. Survey Background and Request for Information.

A survey was conducted under the Evaluation of the Patent Trial and Appeal Board (PTAB) Operations (#2020-353) initiated October 1, 2019. See:

[https://www.oig.doc.gov/OIGPublications/2019-10-01\\_USPTO\\_PTAB\\_Announcement%20Memo.pdf](https://www.oig.doc.gov/OIGPublications/2019-10-01_USPTO_PTAB_Announcement%20Memo.pdf).

The survey of interest was sent to candidates in an email from the MITRE Corporation in March of 2020 with the title General Survey Invitation: Patent Trial and Appeal Board Evaluation - Patent Owners. The survey was posted at:

<https://www.research.net/r/PatentOwners>

We seek disclosure of agency records in your possession relating to the survey hat fall within the following categories:

Any records related to the survey conducted by the Office of the Inspector General of the Department of Commerce as a part of the Evaluation of the Patent Trial and Appeal Board (PTAB) Operations (#2020-353) initiated October 1, 2019. The records sought include but are not limited to 1) survey responses, and 2) e-mails, logs, compilations, summaries, analyses, spreadsheets, documents, or presentations regarding the survey or any responses to the survey.

## III. Custodianship of the Documents and Prior Requests.

The OIG conducted this survey, and is the custodian of documents related to it. Please be advised that prior requests for this information to the OIG have been mistakenly or improperly transferred to the USPTO. The information is not in the custody of the USPTO. In response to a FOIA request regarding this information, the USPTO advised that “The Office of the Inspector General (OIG) of the Department of Commerce conducted the survey that is the subject of your inquiry. As such, the OIG are the custodians of any responsive records that may exist.” This request should be responded to by the OIG, not the USPTO.

## III. The Requestors.

US Inventor is a national non-profit organization that works to promote and defend the rights of citizen inventors. It educates and informs through its website, media appearances, news releases, and educational videos and programming.

The records requested are not sought for commercial use. US Inventor’s plans to use the channels described above to disseminate summaries of the information disclosed as a result of this FOIA request.

## IV. Request for Waiver of Processing Fees.

We request a fee waiver for duplication costs pursuant to 5 U.S.C. § 552(a)(4)(ii)(II)-(iii). Disclosure of the requested information is in the public interest. It will further public understanding of government conduct that is of interest to the public. In particular, the USPTO’s

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policies, practices, and methods of obtaining outside agency input during the determination of outcomes for pending IPR's.

US Inventor is a nonprofit 501(c)(4) organization. It is well situated to disseminate information gained through this request to the public, and to affected members of the citizenry.

If this request for information is denied in whole or in part, we ask that you justify all deletions by reference to specific provisions of the Freedom of Information Act. We specifically request that you release all segregable portions of otherwise exempt material. We reserve the right to appeal a decision to withhold any information.

Thank you for your prompt attention to this matter. Please furnish all applicable records to William W. Flachsbart, Flachsbart & Greenspoon, LLC, 333 N. Michigan Ave, Suite 2700, Chicago, IL 60601. I affirm that the information provided supporting the request is true and correct to the best of my knowledge and belief.

Very truly yours,

William W. Flachsbart