



December 28, 2021

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 Final Decision on Freedom of Information Act Request No. F-21-00173

Dear Deputy General Counsel:

US Inventor (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 (PTO) final decision of September 29, 2021 on FOIA Request No. F-21-00173.

1 BACKGROUND

On July 18, 2021, USI filed a request under the FOIA, 5 U.S.C. § 552 and 37 C.F.R. § 102.4, for the following records regarding PTO's submissions to the U.S. Office of Personnel Management (OPM):

1. Copies of all communications, documents, requests for approval, and records the PTO submitted to OPM regarding base salaries, bonus awards (including their calculation) for each of fiscal years 2012-2020 inclusive, and to each PTO employee working for the Patent Trial and Appeal Board (PTAB). This includes the names and signatures of the authorizing officials and pay information for all Administrative Patent Judges (APJs), Lead APJs, Vice Chief APJs, Deputy Chief APJ, and Chief APJ. The records under this request also include but not limited to any cover letters, submission slips, and any online submission forms provided to OPM when communicating the information sought hereunder.
2. Copies of all communications, documents, records, and approvals that the PTO received from OPM in response to, and with respect to PTO's communications identified in Request 1 above.

See Attachment 1 (the "Request").

On July 21, 2021, the PTO acknowledged receipt and docketed the Request as FOIA Request No. F-21-00173. The acknowledgement stated that the PTO expects to send its response no later than August 16, 2021.

On August 12, 2021, the PTO sent a notice to USI stating that "[i]n accordance with

37 C.F.R. § 102.6(c), the response time limit is hereby extended ten additional working days to **August 30, 2021** due to unusual circumstances. This extension is necessary because of the need to thoroughly collect and examine records that may come from multiple business units that are subject to the request.” *See* Attachment 2. Still, the PTO failed to meet the FOIA deadline and no communication to USI was received for more than four weeks after August 30, 2021.

In an email communication including a file attachment named “Final Agency Response” dated September 29, 2021, the PTO issued its final decision responding to the Request, (the “Final Decision”). The Final Decision stated the PTO “has identified 75 pages of documents that are responsive to your request. A copy of the material is enclosed. Portions of the material, however, were redacted pursuant to Exemption (b)(6) of the FOIA.” *See* Attachment 3.

In USI’s careful investigation of the released information attached to the Final Decision, it became clear that the PTO produced only a small subset of identifiable responsive records on PTAB employees subject to the Request. Attachment 4 hereto lists the little data that was released, showing that it incompletely covers only 11 PTAB employees. The PTO redacted several personal performance rating fields for each employee under FOIA Exemption (b)(6). For one Vice Chief APJ, however, the bonus award for 2017 was improperly redacted under that exemption.

2 THE PTO FAILED TO CONDUCT A PROPER SEARCH FOR RESPONSIVE RECORDS

The Final Decision asserts that the PTO “has identified 75 pages of documents that are responsive to your request.” This response is apparently *not* based on a proper search. It appears that the PTO identified only Senior Executive Service (SES) employee records, and even these records are manifestly incomplete. The Request sought records covering the years 2012-2020 inclusive, for all APJs, Lead APJs, Vice Chief APJs, Deputy Chief APJ, and Chief APJ. The PTO did not claim any FOIA exemption for withholding any PTAB employee records. Yet, records were not produced for any APJs or any Lead APJs. As Attachment 4 shows, for a few SES positions, base salary or bonus award records were apparently withheld as to the Chief APJ for 2012, 2015, and 2016; as to Deputy Chief APJ for 2012-2016, and 2019; and as to Vice Chief APJs for 2012-2016. The PTO must produce the missing information.

2.1 OPM Collection of Federal Workforce Information

There is substantial evidence that the records sought in the Request for all APJs and Lead APJs were improperly withheld despite their possession by the PTO. As described below, OPM does receive data originated from the PTO on salary and bonus awards for all PTAB employees.

Under the Civil Service regulations, with exceptions that are inapplicable to the PTO, each agency must establish an Official Personnel Folder (OPF) for each of its employees. 5 C.F.R. § 293.302. Each agency must also establish separate employee performance record system, which includes employee “performance-related documents.” 5 CFR § 293.402.

Congress empowered the President with broad authority to ensure OPM's central role in regulating and supervising agencies' management of their employees. First, under 5 U.S.C. § 2951, the President may prescribe rules requiring agencies to (1) notify the OPM of appointment of employees; their separations, transfers, resignation, and removal; and (2) requiring OPM to keep records of these actions. Second, under 5 U.S.C. § 1104(a)(1), the President may delegate authority for personnel management functions to the Director of OPM.

In 2001, by Executive Order 13,197,¹ the President authorized the Director of OPM to require all Executive agencies to report information related to their civilian employees. The OPM Director was required to develop standards for workforce information submissions and agencies were to ensure submissions met those standards. Among other provisions, Section 3 of EO 13,197 promulgated 5 C.F.R. § 9.2, which regulation provides:

"The Director of the [OPM] may require all Executive agencies to report information relating to civilian employees, including positions and employees in the competitive, excepted, and Senior Executive services, in a manner and at times prescribed by the Director. The Director shall establish standards for workforce information submissions under this section, and *agencies shall ensure that their submissions meet these standards* consistent with the Privacy Act." (Emphasis added).

Accordingly, the OPM published the Guide to Data Standards,² which directs as follows:

"Federal agencies should rely on this guide to prepare Human Resources (HR), Payroll and Training Data Files. Agencies are responsible for regularly submitting their data files to the [OPM], and OPM will then load the data into its Enterprise Human Resources Integration (EHRI) Data Repository."

In this way, "[t]he Official Personnel Folder (OPF) of each employee in a position subject to civil service rules and regulations and of each former employee who held such a position *is part of the records of the [OPM].*" 5 C.F.R. § 293.303(a) (emphasis added). In turn, agencies "shall be responsible for" ... (1) "[t]he establishment of the OPF for a new appointee or a new employee for whom no OPF has previously been established; and (2) [t]he *maintenance* of a previously existing OPF during the period any new appointee or employee remains an agency's employee." *Id.*, § 293.303(c) (emphasis added).

OPM's data feed guide for data elements of the EHRI Data Repository³ explains that "[t]o assure proper maintenance," agencies must revise data elements, "*ensuring that the data element is kept current.*"⁴ Among the data elements that are "*mandatory*" for entry in the

¹ Executive Order 13197 of January 18, 2001, *Governmentwide Accountability for Merit System Principles; Workforce Information*, 60 *Fed. Reg.* 7853 (January 25, 2001) (Promulgating 5 C.F.R. Parts 9-10).

² See OPM's *Guide to Human Resources Reporting*, at www.opm.gov/policy-data-oversight/data-analysis-documentation/data-policy-guidance/#url=HR-Reporting.

³ OPM, *The Guide to Data Standards. Part A: Human Resources* (Update 15, July 18, 2014), available at <https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.439.8712&rep=rep1&type=pdf>.

⁴ *Id.*, at A-3.

EHRI system are the Agency identifier, Employee name, Salary, and Bonus Award.⁵ It is through this process that OPM can guarantee compliance with the regulation stating that “annual salary rates (including performance awards or bonuses, incentive awards, merit pay amount, ...)” are to be made “available to the public.” 5 C.F.R. § 293.311(a)(4).

2.2 OPM’s EHRI system regularly receives APJ employee information from the PTO

The PTO is not exempt from the EHRI reporting and data element maintenance requirements of 5 C.F.R. §§ 9.2 and 293.303(c). Moreover, as explained above, entry of the salary and bonus awards for each employee is mandatory. The EHRI agency identifier for the PTO is CM56⁶ and the Occupational Category data elements applicable for PTO employees include but are not limited to Patent Administration, Patent Attorney, and Patent Examining.⁷ Note that there is no occupational element for an APJ and the PTO uses the “Patent Attorney” category for most APJs. This is verified in a sample of records obtained from the OPM EHRI system for selected APJs as listed in Attachment 5.

This sample and the detailed description of the OPM process in Section 2.1 above establishes that records pertaining to APJs *originated* from the PTO are *received* by the OPM. Regardless of any involvement of an intermediary custodian or Department of Commerce liaison to OPM (if any), these records that originate from the PTO and are entered into OPM’s EHRI system are well within the scope of Request 1. They must therefore be identified and produced in their entirety.

The PTO bears the burden of showing that its search was calculated to uncover all relevant documents. *Steinberg v. United States Dep’t of Justice*, 23 F.3d 548, 551 (D.C. Cir.1994). “An agency fulfills its obligations under FOIA if it can demonstrate beyond material doubt that its search was ‘reasonably calculated to uncover all relevant documents.’” *Valencia–Lucena v. Coast Guard*, 180 F.3d 321, 325 (D.C. Cir.1999) (citations omitted); agencies are required “to make more than perfunctory searches and, indeed, to follow through *on obvious leads* to discover requested documents.” *Id.* (emphasis added). “As the relevance of some records may be more speculative than others, the proper inquiry is whether the requesting party has established a *sufficient predicate* to justify searching for a particular type of record.” *Campbell v. United States Dep’t of Justice*, 164 F.3d 20, 28 (D.C. Cir.1998) (emphasis added).

The Request established ample “predicates” and “obvious leads” to particular responsive records by specifically identifying the type of PTO records received by the OPM; PTO must be presumed fully aware of the relevance of its communication of employee records to the OPM pursuant to 5 C.F.R. §§ 9.2 and 293.303(c). The PTO provided no evidence that it conducted any search “reasonably calculated to uncover all relevant documents.”

3 THE PTO IMPROPERLY REDACTED BONUS AWARD INFORMATION

As Attachment 4 shows, the material produced by the PTO includes a redaction under Exemption (b)(6) of the bonus award for Vice Chief APJ Janet Gongola. This redaction is

⁵ See *Id.*, entry formats for Agency/Subelement at [A-11](#), Employee Name at [A-135](#), Total Salary at [A-506](#), and Award Dollars at [A-56](#).

⁶ See OPM, *The Guide to Data Standards*, *supra* note 3 at [A-25](#).

⁷ *Id.*, at [A-321](#).

unauthorized, as the Civil Service regulations specifically require that information on "performance awards or bonuses" amounts must be made "available to the public." 5 C.F.R. § 293.311(a)(4). *See also FLRA v. U.S. Dep't of Commerce*, 962 F.2d 1055, 1060 (distinguishing personnel "ratings," which traditionally have not been disclosed, from "performance awards," which ordinarily are disclosed); *FAA v. National Air Traffic Controllers Association*, 51 F.L.R.A. 1054, 1064, 1996 FLRA LEXIS 28, *22, 51 FLRA No. 87 (F.L.R.A. March 29, 1996) (Recognizing under the FOIA "that disclosure of information relating to performance awards would serve the public interests of: (1) ensuring that the appraisal and awards systems are administered in a fair and equitable manner, without discrimination, and in accordance with laws, rules and regulations and (2) monitoring the public fisc to ensure that the agency's expenditure of money for awards is appropriate.")

The PTO has not redacted the performance awards for all other employees (see Attachment 4) and so this single entry redaction may be a simple error. The PTO must therefore remove any unauthorized redactions.

4 PTO MAY NOT CHARGE ANY FEES NOR "RESTART THE FOIA CLOCK"

As indicated in Section 2 above, the PTO has yet to complete a proper search and produce identified responsive records. To the extent that any fees may be calculated, USI is entitled to a public interest fee waiver, as explained in the Request. In any event, the PTO has by now forfeited its right to charge fees for this Request. The PTO has failed to provide its written determination within the FOIA time limits set forth in 5 U.S.C. § 552(a)(6)(B). The PTO is therefore barred from assessing fees in this case. 5 U.S.C. § 552(a)(4)(A)(viii).

Congress amended § 552(a)(4) of the FOIA in the *Open Government Act of 2007*, § 2. "To underscore Congress's belief in the importance of the statutory time limit, the 2007 Amendments declare that '[a]n agency shall not assess search fees ... if the agency fails to comply with *any time limit*' of FOIA." *Bensman v. Nat'l Park Serv.*, 806 F. Supp. 2d 31, 38 (D.D.C. 2011) (quoting 5 U.S.C. § 552(a)(4)(A)(viii)) (emphasis and alterations in original). If an agency is permitted to avoid timely search for responsive records, let the statutory deadline lapse, and then take indefinite time to commence a search only if challenged, it would render the 2007 Amendment superfluous because it would allow an agency to charge fees regardless of whether it complied with FOIA deadlines.

In any event, the PTO may not "restart the FOIA clock" by starting a new FOIA proceeding subject to another appeal – its response to *this* appeal including production of all responsive records must be the PTO's final agency action on the matter.

5 CONCLUSION

The PTO must commence a proper search and produce all responsive records promptly.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "Randy J. Landreneau", with a long horizontal flourish extending to the right.

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

ATTACHMENT 1

FOIA Request



July 18, 2021

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 on PTAB employee compensation information.

Dear FOIA Officer:

US Inventor, a not-for-profit § 501(c)(4) corporation, hereby requests under the Freedom of Information Act (FOIA), 5 U.S.C. § 552 and 37 C.F.R. § 102.4, the following records from the U.S. Patent & Trademark Office (PTO) regarding communications with the U.S. Office of Personnel Management (OPM):

1. Please provide copies of all communications, documents, requests for approval, and records the PTO submitted to OPM regarding base salaries, bonus awards (including their calculation) for each of fiscal years 2012-2020 inclusive, and to each PTO employee working for the Patent Trial and Appeal Board (PTAB). This includes the names and signatures of the authorizing officials and pay information for all Administrative Patent Judges (APJs), Lead APJs, Vice Chief APJs, Deputy Chief APJ, and Chief APJ. The records under this request also include but not limited to any cover letters, submission slips, and any online submission forms provided to OPM when communicating the information sought hereunder.
2. Please provide copies of all communications, documents, records, and approvals that the PTO received from OPM in response to, and with respect to PTO's communications identified in Request 1 above.

Please provide the requested material in its native electronic form such as Excel, MS Word or PDF documents, preferably by email to rlinventor@protonmail.com.

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.

US INVENTOR

Innovators, Inventors, Dreamers, and Builders

FOIA Exemptions not applicable

Under the “public-domain doctrine, materials normally immunized from disclosure under FOIA lose their protective cloak once disclosed and preserved in a permanent public record.”¹ Moreover, FOIA exemptions are not applicable to disclosure of numerical data that can be derived from other data otherwise in the public domain.² Both the annual base salary and bonus award information for all PTAB employees were made publically available by official government disclosure in OPM’s release of the Enterprise Human Resources Integration-Statistical Data Mart (EHRI-SDM) dataset.³ This data is “preserved in a permanent public record” compiled by the nonprofit organization FederalPay.org for online search.⁴ In producing records hereunder, the PTO may not withhold or redact the specific information previously released by the government in the EHRI-SDM dataset, nor any data that can be derived from the data otherwise in the EHRI-SDM dataset.

Public Interest Fee Waiver

Because records requested herein were identified explicitly and may be readily located without undue search burden, US Inventor anticipates that under 37 C.F.R. § 102.11(d)(4), no fees should be assessed. However, in the event that the PTO intends to assess fees for this request, US Inventor requests a public interest fee waiver because the requested records directly concern and bear upon the government’s operations and activities, will be highly informative to the general public regarding the PTO’s policies, including on matters directly affecting thousands of patent and trademark holders and applicants.

Upon receipt, we will make these records or their analysis publically available on our website at <https://usinventor.org/ptab-foia-documents> for use by journalists, scholars, students, and interested members of the public at no charge, and use the information in reports, newsletters (www.usinventor.org/subscribe), 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,”⁵ a 501(c)(4) corporation.

¹ *Cottone v. Reno*, 193 F.3d 550, 554, (D.C. Cir. 1999).

² *Judicial Watch, Inc. v. United States HHS*, 2021 U.S. Dist. LEXIS 45583, *22-23, 2021 WL 930350 (D.D.C. March 11, 2021) (Other fee information in the public domain “makes calculating the per-specimen fee an exercise of simple math.”)

³ See www.fedscope.opm.gov/datadefn/ae_hri_sdm.asp.

⁴ See search portal at www.federalpay.org/employees.

⁵ 5 U.S.C. § 552(a)(4)(A)(iii); 37 C.F.R. § 102.11(k)(1).



U.S. Inventor prefers to receive the documents by email, at rlinventor@protonmail.com or some other electronic form that preserves all document integrity.

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

Respectfully submitted,

A handwritten signature in blue ink, which appears to read "Randy Landreneau", is shown.

US INVENTOR

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

rlinventor@protonmail.com
727-744-3748

ATTACHMENT 2

PTO Notice of extension



UNITED STATES PATENT AND TRADEMARK OFFICE

Office of the General Counsel

August 12, 2021

VIA EMAIL

Mr. Randy Landreneau
rlinventor@protonmail.com

Re: Freedom of Information Act (FOIA) Request No. F-20-00170

Dear Mr. Landreneau:

The USPTO is in receipt of your FOIA request referenced above. This is the Agency's notice to extend the response time limit to your Freedom of Information Act (5 U.S.C. § 552) request for:

1. Copies of all communications, documents, requests for approval, and records the PTO submitted to OPM regarding base salaries, bonus awards (including their calculation) for each of fiscal years 2012-2020 inclusive, and to each PTO employee working for the Patent Trial and Appeal Board (PTAB). This includes the names and signatures of the authorizing officials and pay information for all Administrative Patent Judges (APJs), Lead APJs, Vice Chief APJs, Deputy Chief APJ, and Chief APJ. The records under this request also include but not limited to any cover letters, submission slips, and any online submission forms provided to OPM when communicating the information sought hereunder.
2. Please provide copies of all communications, documents, records, and approvals that the PTO received from OPM in response to, and with respect to PTO's communications identified in Request 1 above.

The request was received on July 19, 2021. The response period for the Agency's initial determination runs through August 16, 2021.

In accordance with 37 C.F.R. § 102.6(c), the response time limit is hereby extended ten additional working days to **August 30, 2021** due to unusual circumstances. This extension is necessary because of the need to thoroughly collect and examine records that may come from multiple business units that are subject to the request. The Agency's response will promptly follow its review and final assembly of responsive documents. No additional extensions are anticipated, and records will be released before August 30, 2021 if possible.

Sincerely,

A handwritten signature in black ink, appearing to read "Traci Alexander", is positioned above the typed name.

Traci Alexander
USPTO FOIA Specialist
Office of General Law

ATTACHMENT 3

PTO Final Decision on the FOIA Request



UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE OF THE GENERAL COUNSEL

September 29, 2021

VIA EMAIL

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

RE: ***Freedom of Information Act (FOIA) Request No. F-21-00173***

Dear Mr. Landreneau:

The United States Patent and Trademark Office (USPTO) FOIA Office has received your e-mail dated July 18, 2021 requesting a copy of the following documents pursuant to the provisions of the Freedom of Information Act, 5 U.S.C. § 552:

All communications, documents, requests for approval, and records the PTO submitted to OPM regarding base salaries, bonus awards (including their calculation) for each of fiscal years 2012-2020 inclusive, and to each PTO employee working for the Patent Trial and Appeal Board (PTAB). This includes the names and signatures of the authorizing officials and pay information for all Administrative Patent Judges (APJs), Lead APJs, Vice Chief APJs, Deputy Chief APJ, and Chief APJ. The records under this request also include but not limited to any cover letters, submission slips, and any online submission forms provided to OPM when communicating the information sought hereunder.

Please provide copies of all communications, documents, records, and approvals that the PTO received from OPM in response to, and with respect to PTO's communications identified in Request 1 above.

The USPTO has identified 75 pages of documents that are responsive to your request. A copy of the material is enclosed. Portions of the material, however, were redacted pursuant to Exemption (b)(6) of the FOIA.

Exemption (b)(6) of the FOIA, which permits 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 (b)(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 (b)(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, the social security numbers, birthdates, benefit elections, percentage ranges for bonus compensation and individual performance rating numbers is information that applies to particular individuals, and in which those individuals have a legitimate privacy interest. The combination of bonus percentage with the bonus amount could lead to revealing an individual performance rating, which is information that falls squarely within the accepted privacy interest federal employee have over their performance records. E.g., *Smith v. Dep't of Labor*, 798 F. Supp. 2d 274, 283-85 (D.D.C. 2011) (affirming agency's redaction of job performance information); *Barvick v. Cisneros*, 941 F. Supp. 1015, 1020 n.4 (D. Kan. 1996) (concluding that employees have protectable privacy interest in performance appraisals).

If a privacy interest in the responsive records exists, as it does here, exemption (b)(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). 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 overall operations or activities of the USPTO, and is instead focused on individual employee performance. Moreover, your FOIA request does not articulate any alleged public interest that outweighs this privacy interest. See NARA v. Favish, 541 U.S. 157, 175 (2004) (noting that the balancing test did not even come into play when the requester had produced no evidence to warrant a belief that government impropriety occurred). As such, the FOIA dictates that the information be withheld.

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. An appeal must be received within 90 calendar days from the date of this letter. See 37 C.F.R. § 102.10(a). 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 denial is in error. Both the letter and the envelope must be clearly marked "Freedom of Information Appeal."

You may contact the FOIA Public Liaison at 571-272-9585 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.

Sincerely,

Dorothy G. Campbell

Dorothy G. Campbell
USPTO FOIA Specialist
Office of General Law

Enclosure

ATTACHMENT 4

List of PTAB employee compensation records released by PTO pursuant to Request 1.

Name	Position Title	Base Annual Salary		Bonus Award	
		Effective Date	Amount	Effective Date	Amount
BOALICK, SCOTT R	Vice Chief APJ			11/19/2015	\$ 9,735
BOALICK, SCOTT R	Vice Chief APJ	1/10/2016	\$ 180,840		
BOALICK, SCOTT R	Deputy Chief APJ	1/8/2017	\$ 185,148	11/21/2017	\$ 12,035
BOALICK, SCOTT R	Deputy Chief APJ	1/7/2018	\$ 187,722	11/19/2018	\$ 17,834
BOALICK, SCOTT R	Chief APJ	1/6/2019	\$ 189,600	11/19/2019	\$ 34,614
BOALICK, SCOTT R	Chief APJ	1/5/2020	\$ 197,300	11/23/2020	\$ 35,541
BONILLA, JACQUELINE D WRIGHT	Vice Chief APJ			11/21/2017	\$ 10,837
BONILLA, JACQUELINE D WRIGHT	Vice Chief APJ	1/7/2018	\$ 184,236	11/19/2018	\$ 13,357
BONILLA, JACQUELINE D WRIGHT	Vice Chief APJ	1/6/2019	\$ 187,050	11/20/2019	\$ 21,804
BONILLA, JACQUELINE D WRIGHT	Deputy Chief APJ	1/5/2020	\$ 194,530	11/23/2020	\$ 24,316
FINK, WILLIAM M	Vice Chief APJ	1/6/2019	\$ 187,050	11/19/2018	\$ 13,095
FINK, WILLIAM M	Vice Chief APJ	1/5/2020	\$ 191,913	11/19/2019	\$ 17,770
FINK, WILLIAM M	Vice Chief APJ	1/3/2021	\$ 193,858	11/23/2020	\$ 19,191
GONGOLA, JANET A	Vice Chief APJ	1/8/2017	\$ 182,648	11/21/2017	(b)(6)
GONGOLA, JANET A	Vice Chief APJ	1/7/2018	\$ 185,187	11/19/2018	\$ 11,111
GONGOLA, JANET A	Vice Chief APJ	1/6/2019	\$ 187,050	11/19/2019	\$ 17,770
GONGOLA, JANET A	Vice Chief APJ, Strategy	1/5/2020	\$ 191,913	11/23/2020	\$ 18,232
KELLEY, NATHAN K	Deputy Chief APJ			11/19/2015	\$ 12,251
RAMSEY, ADAM TODD	Board Executive	1/10/2016	\$ 174,225		
RUSCHKE, DAVID P	Chief APJ			11/21/2016	\$ 9,718
RUSCHKE, DAVID P	Chief APJ	1/8/2017	\$ 187,000	11/21/2017	\$ 22,440
RUSCHKE, DAVID P	Chief APJ	1/7/2018	\$ 189,600		
SMITH, JAMES D	Chief APJ			11/17/2013	\$ 9,884
SMITH, JAMES D	Chief APJ			11/16/2014	\$ 13,613
TALBOTT, DAVID L	Board Executive			11/21/2017	\$ 13,656
TALBOTT, DAVID L	Board Executive	1/7/2018	\$ 185,187	11/19/2018	\$ 13,426
TALBOTT, DAVID L	Board Executive	1/6/2019	\$ 187,050	11/19/2019	\$ 18,237
TIERNEY, MICHAEL	Vice Chief APJ			11/21/2017	\$ 10,837
TIERNEY, MICHAEL	Vice Chief APJ	1/7/2018	\$ 184,236	11/19/2018	\$ 13,357
TIERNEY, MICHAEL	Vice Chief APJ	1/6/2019	\$ 187,050	11/19/2019	\$ 17,700
TIERNEY, MICHAEL	Vice Chief APJ	1/5/2020	\$ 191,913	11/23/2020	\$ 18,232
TIERNEY, MICHAEL	Vice Chief APJ	1/3/2021	\$ 193,858		
WEIDENFELLER, SCOTT C	Vice Chief APJ			11/21/2017	\$ 10,837
WEIDENFELLER, SCOTT C	Vice Chief APJ	1/7/2018	\$ 184,236	11/19/2018	\$ 11,975
WEIDENFELLER, SCOTT C	Vice Chief APJ	1/6/2019	\$ 187,050	11/19/2019	\$ 17,700
WEIDENFELLER, SCOTT C	Vice Chief APJ	1/5/2020	\$ 191,913	11/23/2020	\$ 18,232
WEIDENFELLER, SCOTT C	Vice Chief APJ	1/3/2021	\$ 193,858		

ATTACHMENT 5

Sample PTAB Judge Compensation records available to the public

FederalPay.org has created a search tool that allows public access to the OPM's Enterprise Human Resources Integration (EHRI) dataset, which contains records of most civilian public employees of the U.S. Federal Government. The searchable database contains records for all Federal employees who earn over \$100,000 per year, or who are in the highest paid 10% in their respective agencies. Further information on this data source is available at www.federalpay.org/articles/employee-lookup. The following is a sample of such records from www.federalpay.org/employees for PTAB Judges empaneled on selected AIA trials identified at the top of each list.

Select: the Patent Office from the agency field; "All Years"; and enter the APJ's name followed by clicking on "Search." This results in a summary table display for the APJ. Click further on the APJ's name hyperlink to obtain a new table with compensation breakdown by salary and bonus award for this APJ.

SG Gaming, Inc. v. New Vision Gaming & Dvlpmt. Inc.; CBM2018-00005, CBM2018-00006

Frances L. Ippolito					
Year	Occupation	Paygrade	Base Salary	Bonus	Location
2018	Patent Attorney	AD-00	\$172,100	\$0	Portland, Oregon
2017	Patent Attorney	AD-00	\$172,100	\$0	Portland, Oregon
2016	Patent Attorney	AD-00	\$170,400	\$16,098	Portland, Oregon
2015	Patent Attorney	AD-00	\$168,606	\$19,240	Menlo Park, California
2014	Patent Attorney	AD-00	\$165,300	\$0	Menlo Park, California

Kevin W. Cherry					
Year	Occupation	Paygrade	Base Salary	Bonus	Location
2018	Patent Attorney	AD-00	\$172,100	\$16,241	Alexandria, Virginia
2017	Patent Attorney	AD-00	\$172,100	\$16,241	Alexandria, Virginia
2016	Patent Attorney	AD-00	\$169,695	\$24,683	Alexandria, Virginia
2015	Patent Attorney	AD-00	\$154,268	\$0	Alexandria, Virginia
2014	Patent Attorney	AD-00	\$151,243	\$100	Alexandria, Virginia

Christopher G. Paulraj					
Year	Occupation	Paygrade	Base Salary	Bonus	Location
2018	Patent Attorney	AD-00	\$172,100	\$16,273	Alexandria, Virginia
2017	Patent Attorney	AD-00	\$172,100	\$16,273	Alexandria, Virginia
2016	Patent Attorney	AD-00	\$170,400	\$33,066	Alexandria, Virginia
2015	Patent Attorney	AD-00	\$168,700	\$27,691	Alexandria, Virginia
2014	Patent Attorney	AD-00	\$167,000	\$0	Alexandria, Virginia

Unified Patents, Inc. v. Mobility Workx, LLC; IPR2018-01150

Kara L. Szpondowski					
Year	Occupation	Paygrade	Base Salary	Bonus	Location
2018	Patent Attorney	AD-00	\$172,100	\$0	Detroit, Michigan
2017	Patent Attorney	AD-00	\$172,100	\$0	Detroit, Michigan
2016	Patent Attorney	AD-00	\$168,700	\$0	Detroit, Michigan
2015	Patent Attorney	AD-00	\$168,700	\$0	Detroit, Michigan

Melissa A. Haapala					
Year	Occupation	Paygrade	Base Salary	Bonus	Location
2018	Patent Attorney	AD-00	\$172,100	\$5,112	Denver, Colorado
2017	Patent Attorney	AD-00	\$172,100	\$5,112	Denver, Colorado
2016	Patent Attorney	AD-00	\$170,400	\$20,244	Denver, Colorado
2015	Patent Attorney	AD-00	\$167,000	\$5,010	Denver, Colorado

William M. Fink					
Year	Occupation	Paygrade	Base Salary	Bonus	Location
2018	Patent Attorney	ES-00	\$180,624	\$14,569	Alexandria, Virginia
2017	Patent Attorney	AD-00	\$172,100	\$14,569	Alexandria, Virginia
2016	Patent Attorney	AD-00	\$170,400	\$27,043	Alexandria, Virginia
2015	Patent Attorney	AD-00	\$167,000	\$10,855	Alexandria, Virginia
2014	Patent Attorney	AD-00	\$167,000	\$0	Alexandria, Virginia

Unified Patents, LLC, v. B# On Demand, LLC; IPR2020-00995

Joni Y. Chang					
Year	Occupation	Paygrade	Base Salary	Bonus	Location
2018	Patent Attorney	AD-00	\$172,100	\$27,125	Alexandria, Virginia
2017	Patent Attorney	AD-00	\$172,100	\$17,125	Alexandria, Virginia
2016	Patent Attorney	AD-00	\$170,400	\$33,910	Alexandria, Virginia
2015	Patent Attorney	AD-00	\$168,700	\$31,883	Alexandria, Virginia
2014	Patent Attorney	AD-00	\$167,000	\$18,350	Alexandria, Virginia
2013	Patent Attorney	AD-00	\$165,300	\$0	Alexandria, Virginia
2012	Patent Attorney	AD-00	\$165,300	\$0	Alexandria, Virginia
2011	Patent Attorney	AD-00	\$165,300	\$8,475	Alexandria, Virginia
2010	Patent Administration	GS-15	\$155,500	\$7,660	Alexandria, Virginia
2009	Patent Administration	GS-15	\$153,200	\$7,450	Alexandria, Virginia
2008	Patent Administration	GS-15	\$149,000	\$8,345	Alexandria, Virginia
2007	Patent Administration	GS-15	\$145,400	\$0	Arlington, Virginia
2006	Patent Administration	GS-15	\$136,557	\$0	Arlington, Virginia
2005	Patent Administration	GS-15	\$130,139	\$0	Arlington, Virginia
2004	Patent Administration	GS-15	\$123,437	\$0	Arlington, Virginia

Georgianna W. Braden					
Year	Occupation	Paygrade	Base Salary	Bonus	Location
2018	Patent Attorney	AD-00	\$172,100	\$17,125	Alexandria, Virginia
2017	Patent Attorney	AD-00	\$172,100	\$17,125	Alexandria, Virginia
2016	Patent Attorney	AD-00	\$170,400	\$25,390	Dallas, Texas
2015	Patent Attorney	AD-00	\$168,700	\$30,221	Dallas, Texas
2014	Patent Attorney	AD-00	\$167,000	\$0	Dallas, Texas
2013	Patent Attorney	AD-00	\$165,300	\$0	Dallas, Texas

Arthur M. Peslak					
Year	Occupation	Paygrade	Base Salary	Bonus	Location
2018	Patent Attorney	AD-00	\$172,100	\$0	Millstone, New Jersey
2017	Patent Attorney	AD-00	\$172,100	\$0	Millstone, New Jersey
2016	Patent Attorney	AD-00	\$168,700	\$0	Alexandria, Virginia

Amazon com, Inc. v CustomPlay, LLC.; IPR2018-01496

J. John Lee					
Year	Occupation	Paygrade	Base Salary	Bonus	Location
2018	Patent Examining	GS-14	\$140,666	\$7,287	Alexandria, Virginia
2017	Patent Examining	GS-14	\$140,666	\$3,067	Alexandria, Virginia
2016	Patent Examining	GS-14	\$135,405	\$7,058	Alexandria, Virginia
2015	Patent Examining	GS-14	\$134,063	\$6,789	Alexandria, Virginia
2014	Patent Examining	GS-14	\$128,941	\$3,848	Alexandria, Virginia
2013	Patent Examining	GS-14	\$127,665	\$6,814	Alexandria, Virginia
2012	Patent Examining	GS-14	\$123,911	\$5,636	Alexandria, Virginia
2011	Patent Examining	GS-14	\$123,911	\$4,305	Alexandria, Virginia
2010	Patent Examining	GS-14	\$120,156	\$2,294	Alexandria, Virginia
2009	Patent Examining	GS-14	\$114,682	\$0	Alexandria, Virginia
2008	Patent Examining	GS-14	\$107,854	\$0	Alexandria, Virginia
2007	Patent Examining	GS-13	\$87,036	\$0	Alexandria, Virginia
2006	Patent Examining	GS-12	\$71,451	\$0	Alexandria, Virginia
2005	Patent Examining	GS-12	\$67,794	\$0	Arlington, Virginia
2004	Patent Examining	GS-12	\$64,008	\$0	Arlington, Virginia

Jessica C. Kaiser					
Year	Occupation	Paygrade	Base Salary	Bonus	Location
2018	Patent Attorney	AD-00	\$172,100	\$8,605	Denver, Colorado
2017	Patent Attorney	AD-00	\$172,100	\$8,605	Denver, Colorado
2016	Patent Attorney	AD-00	\$170,400	\$10,989	Denver, Colorado
2015	Patent Attorney	AD-00	\$156,984	\$14,128	Denver, Colorado

John R. Kenny					
Year	Occupation	Paygrade	Base Salary	Bonus	Location
2018	Patent Attorney	AD-00	\$172,100	\$5,163	Alexandria, Virginia
2017	Patent Attorney	AD-00	\$172,100	\$5,163	Alexandria, Virginia
2016	Patent Attorney	AD-00	\$168,700	\$0	Alexandria, Virginia

Unified Patents, LLC v. SecureWave Storage Solutions, Inc.; IPR2019-00501, IPR2019-00932

Joni Y. Chang					
Year	Occupation	Paygrade	Base Salary	Bonus	Location
2018	Patent Attorney	AD-00	\$172,100	\$27,125	Alexandria, Virginia
2017	Patent Attorney	AD-00	\$172,100	\$17,125	Alexandria, Virginia
2016	Patent Attorney	AD-00	\$170,400	\$33,910	Alexandria, Virginia
2015	Patent Attorney	AD-00	\$168,700	\$31,883	Alexandria, Virginia
2014	Patent Attorney	AD-00	\$167,000	\$18,350	Alexandria, Virginia
2013	Patent Attorney	AD-00	\$165,300	\$0	Alexandria, Virginia
2012	Patent Attorney	AD-00	\$165,300	\$0	Alexandria, Virginia
2011	Patent Attorney	AD-00	\$165,300	\$8,475	Alexandria, Virginia
2010	Patent Administration	GS-15	\$155,500	\$7,660	Alexandria, Virginia
2009	Patent Administration	GS-15	\$153,200	\$7,450	Alexandria, Virginia
2008	Patent Administration	GS-15	\$149,000	\$8,345	Alexandria, Virginia
2007	Patent Administration	GS-15	\$145,400	\$0	Arlington, Virginia
2006	Patent Administration	GS-15	\$136,557	\$0	Arlington, Virginia
2005	Patent Administration	GS-15	\$130,139	\$0	Arlington, Virginia
2004	Patent Administration	GS-15	\$123,437	\$0	Arlington, Virginia

Annette R. Reimers					
Year	Occupation	Paygrade	Base Salary	Bonus	Location
2018	Patent Attorney	AD-00	\$172,100	\$0	Alexandria, Virginia
2017	Patent Attorney	AD-00	\$172,100	\$0	Alexandria, Virginia
2016	Patent Attorney	AD-00	\$165,502	\$0	Alexandria, Virginia
2015	Patent Attorney	AD-00	\$156,134	\$9,231	Alexandria, Virginia
2014	Patent Attorney	AD-00	\$151,586	\$5,000	Alexandria, Virginia
2013	Patent Attorney	AD-00	\$145,756	\$0	Alexandria, Virginia
2012	Patent Attorney	AD-00	\$145,756	\$0	Alexandria, Virginia
2011	Patent Attorney	GS-15	\$132,505	\$0	Alexandria, Virginia
2010	Patent Attorney	GS-14	\$112,647	\$0	Alexandria, Virginia
2007	Patent Examining	GS-12	\$75,631	\$0	Alexandria, Virginia
2006	Patent Examining	GS-11	\$64,527	\$0	Alexandria, Virginia
2005	Patent Examining	GS-09	\$59,672	\$0	Arlington, Virginia

Garth D. Baer					
Year	Occupation	Paygrade	Base Salary	Bonus	Location
2018	Patent Attorney	AD-00	\$172,100	\$13,717	Alexandria, Virginia
2017	Patent Attorney	AD-00	\$172,100	\$13,717	Alexandria, Virginia
2016	Patent Attorney	AD-00	\$170,400	\$11,826	Alexandria, Virginia
2015	Patent Attorney	AD-00	\$167,000	\$8,350	Alexandria, Virginia

Kamran Jivani					
Year	Occupation	Paygrade	Base Salary	Bonus	Location
2018	Patent Attorney	AD-00	\$172,100	\$11,979	Alexandria, Virginia
2017	Patent Attorney	AD-00	\$172,100	\$11,979	Cobb, Georgia
2016	Patent Attorney	AD-00	\$170,400	\$15,285	Cobb, Georgia
2015	Patent Attorney	AD-00	\$168,700	\$0	Alexandria, Virginia

Canon USA, Inc. v. Cellspin Soft, Inc.; IPR2019-00127

Gregg I. Anderson					
Year	Occupation	Paygrade	Base Salary	Bonus	Location
2018	<u>Patent Attorney</u>	AD-00	\$172,100	\$13,717	Coronado, California
2017	<u>Patent Attorney</u>	AD-00	\$172,100	\$13,717	Coronado, California
2016	<u>Patent Attorney</u>	AD-00	\$170,400	\$32,206	Denver, Colorado
2015	<u>Patent Attorney</u>	AD-00	\$168,700	\$31,065	Denver, Colorado
2014	<u>Patent Attorney</u>	AD-00	\$167,000	\$8,350	Denver, Colorado
2013	<u>Patent Attorney</u>	AD-00	\$165,000	\$0	Denver, Colorado

Daniel J. Galligan					
Year	Occupation	Paygrade	Base Salary	Bonus	Location
2018	<u>Patent Attorney</u>	AD-00	\$172,100	\$13,717	Dallas, Texas
2017	<u>Patent Attorney</u>	AD-00	\$172,100	\$13,717	Dallas, Texas
2016	<u>Patent Attorney</u>	AD-00	\$170,400	\$23,652	Dallas, Texas
2015	<u>Patent Attorney</u>	AD-00	\$167,000	\$5,010	Dallas, Texas
2014	<u>Patent Attorney</u>	AD-00	\$167,000	\$0	Dallas, Texas

Stacy B. Margolies					
Year	Occupation	Paygrade	Base Salary	Bonus	Location
2018	<u>Patent Attorney</u>	AD-00	\$172,100	\$8,605	Alexandria, Virginia
2017	<u>Patent Attorney</u>	AD-00	\$172,100	\$8,605	Alexandria, Virginia
2016	<u>Patent Attorney</u>	AD-00	\$168,700	\$0	Alexandria, Virginia
2015	<u>Patent Attorney</u>	GS-15	\$158,700	\$0	Alexandria, Virginia
2014	<u>Patent Attorney</u>	GS-15	\$157,100	\$0	Alexandria, Virginia
2013	<u>Patent Attorney</u>	GS-15	\$155,500	\$0	Alexandria, Virginia
2012	<u>Patent Attorney</u>	GS-15	\$155,500	\$0	Alexandria, Virginia