



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", followed by a long horizontal flourish.

US INVENTOR

Randy Landreneau
President
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