



Billing Code: 3510-16-P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No. PTO-T-2020-0007]

Privacy Act of 1974; System of Records

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice of a new system of records.

SUMMARY: Pursuant to the Privacy Act of 1974 and the Office of Management and Budget (OMB) Circular A-108, the United States Patent and Trademark Office (USPTO) hereby gives notice it has established a new system of records titled COMMERCE/USPTO-26, Trademark Application and Registration Records. The USPTO proposes to establish this system of records to manage trademark application and registration records.

DATES: To be considered, written comments must be submitted on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]. This new system of records will become effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], with routine uses becoming effective on [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Comments may be submitted by any of the following methods:

- *E-mail:* SORN@USPTO.gov. Include “Privacy Act USPTO-26 comment” in the subject line of the message.
- *Federal Rulemaking Portal:* <http://www.regulations.gov>.

- *Mail:* Trademark Portfolio Manager, Office of the Chief Information Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Eunice Wang, Trademark Portfolio Manager, Office of the Chief Information Officer, USPTO, by mail to P.O. Box 1450, Alexandria, VA 22313-1450; by telephone at 571-272-8872; or by email to TrademarkAssistanceCenter@uspto.gov with “Trademark Application and Registration Records” in the subject line.

SUPPLEMENTARY INFORMATION: The USPTO is giving notice of a proposed new system of records that is subject to the Privacy Act of 1974. The USPTO is the federal agency responsible for registering trademarks, and this system of records would collect and maintain information related to trademark applications and registrations, including on trademark applicants and their authorized representatives, to carry out the USPTO’s duties.

The Privacy Act requires each agency that proposes to establish a system of records to provide adequate advance notice of any such proposal to the Office of Management and Budget (OMB), the Committee on Oversight and Government Reform of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate (5 U.S.C 552a(r)). The purpose of providing the advance notice to OMB and Congress is to permit an evaluation of the potential effect of the proposal on the privacy and other rights of individuals. The USPTO filed a report describing the new system of records covered by this notice with the Chair of the Senate Committee on Homeland Security and Governmental Affairs, the Chair of the House Committee on Oversight and Government Reform, and the Deputy Administrator of

the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), on [insert date of letters].

SYSTEM NAME AND NUMBER: Trademark Application and Registration Records, COMMERCE/USPTO-26.

SECURITY CLASSIFICATION: Unclassified.

SYSTEM LOCATION: United States Patent and Trademark Office, 600 Dulany Street, Alexandria, VA 22313.

SYSTEM MANAGER(S): Trademark Portfolio Manager, Office of the Chief Information Officer, United States Patent and Trademark Office, Alexandria, VA 22313-1450, or by email to TrademarkAssistanceCenter@uspto.gov.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM: 35 U.S.C. 2 and 15 U.S.C. 1051-1141n.

PURPOSE(S) OF THE SYSTEM: The purpose of this system of records is to carry out the duties of the USPTO to issue federal trademark registrations and maintain a register of trademarks. The system allows the USPTO to collect and maintain records generated as customers apply for and prosecute a trademark application and maintain a trademark registration.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: Applicants for trademark registration, registrants, and legal and other authorized representatives for such applicants and registrants.

CATEGORIES OF RECORDS IN THE SYSTEM: All categories of records may include the name, citizenship, domicile, email address, postal address, and telephone number of the trademark applicant, registrant, and applicant's or registrant's legal or other authorized

representative(s), an attorney's law firm or company affiliation and professional licensing information, and other information pertaining to an applicant's or registrant's activities in connection with the applied-for or registered mark. Records in this system include trademark applications, applicant and registrant declarations, office actions, registration certificates, and correspondence generated in the course of the prosecution of a trademark application or maintenance of a trademark registration.

RECORD SOURCE CATEGORIES: Information in this system of records is derived from records developed during the prosecution of a trademark application or the maintenance of a trademark registration and, thus, the information may come from the trademark applicant, registrant, and applicant's or registrant's legal or other authorized representative.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. **Public Disclosure** - Records in this system of records are available for public inspection, except as of December 21, 2019, the USPTO will not make publicly available the address provided in the "Domicile Address" field on trademark forms. The USPTO will continue to make postal addresses provided for mark owners on trademark forms available for public inspection. Postal and domicile addresses can be different, but when a mark owner elects to provide the same address for both the postal and domicile address, that address will still be available for public inspection. Individuals may also request domicile addresses provided before December 21, 2019, or otherwise present in this system of records, not be made available for public inspection. The information in this system is used by the Agency and the public for a variety of business purposes related to determining eligibility of a mark for federal registration

and enforcing trademark rights. The information is available at USPTO facilities and can also be accessed and downloaded at the USPTO's website.

2. Foreign Entity Disclosure - A record in this system of records may be disclosed to a foreign entity (foreign government or international organization) to satisfy requirements for the processing of an application for a foreign trademark registration or an international trademark registration.

3. Professional Organizations or Associations - A record in this system of records may be disclosed to professional organizations or associations with which individuals covered by this system of records may be affiliated, such as state bar disciplinary authorities, to meet their responsibilities in connection with the administration and maintenance of standards of conduct and discipline.

4. Audit Disclosure - A record from this system of records may be disclosed to an agency, organization, or individual for the purpose of performing an audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to USPTO officers and employees.

5. Governments Disclosure - A record from this system of records may be disclosed to a federal, state, local, or international agency, in response to its request, in connection with (1) the assignment, hiring, or retention of an individual, (2) the issuance of a security clearance, (3) the letting of a contract, or (4) the issuance of a license, grant, or other benefit by the requesting

agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

6. Law Enforcement and Investigation - A record in this system of records may be disclosed to a Federal, state, local, or foreign agency or other appropriate entity where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by (1) general statute or particular program statute or contract, (2) rule, regulation, or order issued pursuant thereto, or (3) the necessity to protect an interest of the Agency. The agency receiving the record(s) must be charged with the responsibility of investigating or prosecuting such violations or with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto, or protecting the interest of the Agency.

7. Non-Federal Personnel - A record in this system of records may be disclosed to contractors, agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other work assignment for the Agency who have need for information from the system of records: (1) In the course of operating or administering the system of records; (2) In the course of fulfilling an agency function, but only to the extent necessary to fulfill that function; or (3) In order to fulfill their contract(s), but who do not operate the system of records within the meaning of 5 U.S.C. 552a(m).

8. Record Informational Inquiries - A record in this system of records may be disclosed to a Federal, state, local, or international agency, maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an Agency decision concerning (1) the assignment, hiring, or

retention of an individual, (2) the issuance of a security clearance, (3) the letting of a contract, or (4) the issuance of a license, grant, or other benefit.

9. Data Breach Notification - A record in this system of records may be disclosed to appropriate agencies, entities, and persons when (1) the USPTO suspects or has confirmed that there has been a breach of the system of records; (2) USPTO has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, USPTO (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and person is reasonably necessary to assist in connection with USPTO's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

10. Data Breach Assistance - A record in this system of records may be disclosed to another Federal agency or Federal entity when the Agency determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

11. Adjudication and Litigation - A record in this system of records may be disclosed to a court, magistrate, or administrative tribunal during the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations.

12. **Department of Justice Litigation** - A record in this system of records may be disclosed to any component of the Department of Justice for the purpose of representing the Agency, or any employee of the Agency, in pending or potential litigation to which the record is pertinent.

13. **Freedom of Information Act Assistance from Department of Justice** - A record in this system of records may be disclosed to the Department of Justice, in connection with determining whether disclosure thereof is required by the Freedom of Information Act (5 U.S.C. 552).

14. **Office of Personnel Management** - A record in this system of records may be disclosed to the Office of Personnel Management (OPM) for personnel research purposes, as a data source for management information, for the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related manpower studies.

15. **Congressional Inquiries** - A record in this system of records may be disclosed to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

16. **National Archives and Records Administration** - A record in this system of records may be disclosed to the Administrator of the National Archives and Records Administration (NARA), or said administrator's designee, during an inspection of records conducted by NARA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with NARA regulations governing inspection of records for this purpose, and any other relevant directive. Such disclosure shall not be used to make determinations about individuals.

17. Office of Management and Budget - A record in this system of records may be disclosed to the Office of Management and Budget (OMB), in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS: USPTO stores the records on electronic storage media, paper records in file folders, and microfilm.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS: Records may be retrieved by mark, application serial number, filing date, registration number, registration date, name of the owner, name of the attorney of record, and other identifiers in the system.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS: Records retention and disposal is performed in accordance with the USPTO Records Control Schedule N1-241-06-2:2 or N1-241-06-2:3 (Trademark Case File Records and Related Indexes). Trademark application and case files meeting certain selection criteria (2:2) are permanent records and transferred to NARA six years after the registrations are cancelled, expired, or go abandoned. Non-selected trademark application and case files (2:3) are temporary records destroyed two years after trademark registrations are cancelled, expired, or go abandoned.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS: Records are maintained in areas accessible only to authorized personnel in buildings protected by security guards. The electronic records stored in systems can be accessed for maintenance only by authorized personnel. Personally and Business identifiable information stored in systems are safeguarded and protected in conformance with all Federal statutory and OMB guidance

requirements. The hosting facility is supported by 24/7 onsite hosting and network monitoring by trained technical staff.

RECORD ACCESS PROCEDURES: Requests from individuals should be submitted as stated in the notification section below.

CONTESTING RECORD PROCEDURES: The general provisions for access and/or contesting information by the individual concerned appear in 37 CFR 102 subpart B. Requests from individuals should be submitted as stated in the notification section below.

NOTIFICATION PROCEDURES: Information about the records contained in this system may be obtained by sending a signed request to the system manager at the address above or to the address provided in 37 CFR 102 subpart B for making inquiries about records covered by the Privacy Act. Requesters should provide their name, address, and record sought in accordance with the procedures for making inquiries appearing in 37 CFR 102 subpart B.

EXEMPTIONS CLAIMED FOR THE SYSTEM: No exemptions claimed.

HISTORY: None.

Dated: February 11, 2020.

Frederick W. Steckler, Chief Administrative Officer,
Office of the Chief Administrative Officer,
United States Patent and Trademark Office.
[FR Doc. 2020-03068 Filed: 2/14/2020 8:45 am; Publication Date: 2/18/2020]