



DEPARTMENT OF COMMERCE

Patent and Trademark Office

Privacy Act of 1974; System of Records

AGENCY: United States Patent and Trademark Office, Department of Commerce.

ACTION: Notice of a modified system of records.

SUMMARY: The Department of Commerce (Department)/United States Patent and Trademark Office (USPTO) is issuing this notice of its intent to modify the Privacy Act system of records under “COMMERCE/PAT-TM-10, Deposit Accounts and Electronic Funds Transfer Profiles.”

This system of records allows the USPTO to collect and maintain personal and financial information on customers who submit payments for services and processing fees to the USPTO.

DATES: The modified system of records notice (SORN) will become effective upon its publication, except that new routine uses 2, 3, 9, 11, 15, 16, and 17 and significant modifications to routine uses 4, 5, 6, 7, 10, 13, and 14 are subject to a public comment period of 30 days from the date of publication and will become effective at the end of that period. Any subsequent changes to a routine use in response to comments received, or other revisions to the system, will be subject to the requirements for further notice, as applicable, as set forth in OMB Circular A-108, section 6. To be considered, written comments must be submitted on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

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

- *Email:* SORN@USPTO.gov. Include “USPTO-10 comment” in the subject line of the message.
- *Federal e-Rulemaking Portal:* <https://www.regulations.gov>.
- *Mail:* Justin Isaac, Office of the Chief Administrative Officer, USPTO, P.O. Box 1450, Alexandria, VA 22313-1450.

The USPTO will make all comments it receives available for public inspection at the Federal e-Rulemaking Portal located at <https://www.regulations.gov>. Before including your address, phone number, email address, or other personal identifying information, you should be aware that your entire comment, including any personal identifying information you provide, may be made publicly available. You may request in your comment that the USPTO withhold your personal identifying information from public review; however, the USPTO cannot guarantee it will be able to do so. Therefore, do not submit personal identifying information, Confidential Business Information, or otherwise sensitive or protected information that you do not want made public.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Matthew Lee, Director of the Receipts Accounting Division, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450; by telephone at (571) 272-6343, by email to Matthew.Lee@uspto.gov with “Fee Management Products – System of Records” in the subject line.

SUPPLEMENTARY INFORMATION: In accordance with the requirements of the Privacy Act of 1974, as amended, and the Office of Management and Budget (OMB) Circular A–108, “Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act,” the USPTO is modifying the system of records currently listed under “COMMERCE/PAT-TM-10, Deposit Accounts and Electronic Funds Transfer Profiles.” This system of records was last amended on August 10, 2007 (72 FR 45009). The changes are needed to ensure that the notice for this system of records is up-to-date, accurate, and current, as required by the Privacy Act, 5 U.S.C. 552a(e)(4).

The USPTO is modifying this system of records due to changes in how it collects, uses, maintains, and retrieves personally identifiable information (PII) from its customers to administer transactions for services and processing fees related to patents, trademarks, and information products. The USPTO charges both service and processing fees, such as, but not

limited to, patent and trademark application filing fees, patent examination fees, patent trial and appeal fees, trademark trial and appeal fees, and processing of refused payment and charge-back fees. Customers are able to choose from several methods of payment to pay for services and processing fees related to patents, trademarks, and information products. The USPTO is updating the system of records to include users of credit cards, debit cards, and paper checks, and/or their associated transactions.

To implement these updates, the USPTO is modifying this system of records to expand the categories of individuals covered by this system and the categories of records maintained in the system to reflect current users and the types of information collected. The USPTO also proposes modifying the record source categories to include records derived from financial entities and the Department of the Treasury or Bureau of the Fiscal Service-designated fiscal and financial agents of the United States that process payments and collections, and to update the appropriate sections to address credit card, debit card, and paper check users and/or the associated transactions.

The USPTO is modifying the routine uses for this system of records to expressly describe and consolidate all applicable routine uses into one notice instead of relying on a cross-reference to other *Federal Register* (FR) notices. In the last full publication of this system of records notice on July 6, 2006 at 71 FR 38387, the USPTO incorporated by reference some of the Prefatory Statement of General Routine Uses published on December 31, 1981 at 46 FR 63501-63502. Instead of relying on the incorporation by reference, the USPTO expressly incorporates in modified form eight General Routine Uses as Routine Uses 4 (formerly 3), 5 (formerly 2), 6 (formerly 1), 7 (formerly 10), 10 (formerly 4), 12 (formerly 9), 13 (formerly 5), and 14 (formerly 13) in this system of records. Of these eight, the USPTO is modifying Routine Uses 4, 5, 6, 7, 10, 13, and 14 to make administrative changes, address the expanded needs of the USPTO and reflect current authorities and practices; and Routine Use 12 to make non-substantive changes for clarity. Each Routine Use has also been updated with minor editorial changes throughout,

including the addition of descriptive headings. In addition, the USPTO proposes revising for clarity a previously unnumbered routine use (Routine Use 1) regarding the disclosure of financial information to financial institutions, including banks and credit unions, and credit card companies for the purpose of revenue collections and/or investigating the accuracy of information required to complete transactions. Also, the USPTO expressly incorporates, but in a modified form, a routine use published on August 10, 2007 at 72 FR 45009 (Routine Use 8) to comport with the USPTO's standards and routine disclosure practices and OMB guidance.

The USPTO is adding seven new routine uses to the system of records. The USPTO proposes adding a routine use (Routine Use 2) to cover the administrative needs of disclosing the information to the Department of Treasury. The USPTO is adding a new routine use (Routine Use 3) to disclose information to any agency, organization, or individual for audit/oversight functions of this system of records, such as to an accreditation entity, but only when such information is necessary and relevant to such function. The USPTO is adding a new routine use (Routine Use 9) to allow the USPTO to provide assistance to other agencies in responding to a data breach, if appropriate, in compliance with OMB Memorandum M-17-12. The USPTO is adding new routine uses (Routine Uses 11 and 15) to describe how the USPTO provides information to other Federal agencies for litigation purposes and in connection with the legislative coordination and clearance process. This includes providing the Department of Justice with information when litigation involves the USPTO (Routine Use 11) and allowing the USPTO to provide information related to private relief legislation to OMB in conjunction with that agency's legislative coordination and clearance functions (Routine Use 15). The USPTO is adding a routine use (Routine Use 16) to cover disclosures of information to officials of labor organizations, and a routine use (Routine Use 17) that describes how and when information may be disclosed to the news media and the public.

Finally, the USPTO is making minor administrative updates to certain sections to reflect current practice and enhance clarity; reorganizing the system of records in accordance with

reissued OMB Circular A-108; and modifying the system of records name from “COMMERCE/PAT-TM-10, Deposit Accounts and Electronic Funds Transfer Profiles” to “COMMERCE/USPTO-10, Fee Management Products” to more accurately reflect the system and breadth of information maintained in the system of records.

The Privacy Act also requires each agency that proposes to establish or significantly modify a system of records to provide adequate advance notice of any such proposal to the OMB, the Committee on Oversight and Accountability of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate (5 U.S.C. 552a(r)). The USPTO filed a report describing the modified 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 Accountability, and the Deputy Administrator of the Office of Information and Regulatory Affairs at OMB.

The modified Privacy Act system of records, “COMMERCE/USPTO-10, Fee Management Products,” is published in its entirety below.

Charles R. Cutshall,
*Senior Agency Official for Privacy,
Chief Privacy Officer and Director of Open Government.
Department of Commerce.*

SYSTEM NAME AND NUMBER: Fee Management Products, COMMERCE/USPTO-10.

SECURITY CLASSIFICATION: Unclassified.

SYSTEM LOCATION:

- Office of Finance, Receipts Accounting Division, USPTO, Madison East Building, 600 Dulany Street, Alexandria, VA 22314;
- Office of the Chief Information Officer, USPTO, Madison West Building, 600 Dulany Street, Alexandria, VA 22314.

SYSTEM MANAGER(S): Director, Office of Finance, USPTO, Madison East Building, 600 Dulany Street, Alexandria, VA 22314.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM: 15 U.S.C. 1113, Pub. L. 112-29, and 35 U.S.C. 2 and 41.

PURPOSE(S) OF THE SYSTEM: The purpose of this system is to collect, maintain, use, and retrieve personal and financial records of patent and trademark customers to process fees related to patents, trademarks, and information products.

This system of records contains the information necessary to allow customers to establish deposit accounts at USPTO, maintain existing accounts, charge the appropriate deposit account, or receive refunds if applicable. This system of records allows customers to establish and maintain a user profile to make fee payments from their bank accounts by electronic funds transfer (EFT), credit cards, debit cards, paper checks, or equivalent methods.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: Registered patent attorneys and agents and other members of the public who maintain deposit accounts or submit payments, including those completed through their user profile, for the cost of products and services rendered by the USPTO.

CATEGORIES OF RECORDS IN THE SYSTEM: Categories of records in the system include:

1. Biographic information, including the account holder's first and last name, company or organization.
2. Contact information, including account holder's address and email address.
3. User information, including the user identification (ID), file/case ID number, and username and password.
4. Financial information, including deposit account number, financial account, financial transaction, credit card number, debit card number, paper check, bank name, bank routing number, bank account number, type of account, and payment transaction irregularities.

RECORD SOURCE CATEGORIES: Information in this system of records is derived from subject individuals, those authorized by the individual to furnish information, including

appropriate financial entities, and the Department of the Treasury or Bureau of the Fiscal Service-designated fiscal and financial agents of the United States that process payments and collections.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING

CATEGORIES OF USERS AND PURPOSES OF SUCH USES: In addition to those disclosures generally permitted under the Privacy Act of 1974, as amended, 5 U.S.C. 552a(b), records maintained as part of this system of records may be routinely disclosed pursuant to 5 U.S.C. 552a(b)(3) as follows:

1. *Financial Institutions*—A record from this system of records may be disclosed to financial institutions and other financial services companies, including banks, credit unions, and credit card companies, for the purpose of revenue collections, refunds, and/or investigating the accuracy of information required to complete transactions using electronic methods and for administrative purposes, such as resolving questions, problems, or irregularities about a transaction.
2. *Department of the Treasury*—A record from this system of records may be disclosed to the Department of the Treasury, as well as its fiscal agents and financial agents, for the purpose of performing financial management services, including, but not limited to, processing payments, investigating and rectifying possible erroneous reporting information, creating and reviewing statistics to improve the quality of services provided, or conducting debt collection services.
3. *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 operation as authorized by law, but only such information as is necessary and relevant to such audit or oversight function 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 the USPTO officers and employees.

4. *Governments Disclosure*—A record from this system of records may be disclosed to a Federal, State, local, Tribal, 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.
5. *Record Informational Inquiries*—A record in this system of records may be disclosed to a Federal, State, local, Tribal, 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 a USPTO 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.
6. *Law Enforcement and Investigation*—A record in this system of records may be disclosed to a Federal, State, local, Tribal, 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 USPTO or the Department of Commerce. 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 USPTO or the Department of Commerce.
7. *Non-Federal Personnel*—A record in this system of records may be disclosed to individuals, contractors, agents, grantees, experts, consultants, student volunteers, and other workers who

technically do not have the status of Federal employees, performing or working on a contract, service, grant, cooperative agreement, or other work assignment for the USPTO or the Department of Commerce, to the extent needed to perform their assigned functions. These individuals or entities may have a 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. *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) the 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 persons is reasonably necessary to assist in connection with the USPTO's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.
9. *Data Breach Assistance*—A record in this system of records may be disclosed to another Federal agency or Federal entity when the USPTO 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.
10. *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 where use of such records by the court or the USPTO is deemed by the USPTO to be relevant and necessary to the litigation, provided, however, that in each case, the USPTO determines that disclosure of the records to the court is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

11. *Department of Justice Litigation*—To the U.S. Department of Justice (DOJ), or in a proceeding before a court, adjudicative body, or other administrative body in which the USPTO is authorized to appear, when

- (1) The USPTO;
- (2) Any employee of the USPTO in their official capacity; or
- (3) Any employee of the USPTO in their individual capacity where the DOJ or the USPTO has agreed to represent the employee; or
- (4) The United States, when the USPTO determines that litigation is likely to affect the USPTO;

is a party to litigation or has an interest in such litigation, and the use of such records by the DOJ or the USPTO is deemed by the USPTO to be relevant and necessary to the litigation, provided, however, that in each case, the USPTO determines that disclosure of the records to DOJ is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

12. *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).

13. *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.

14. *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.
15. *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.
16. *Labor Organizations*—A record in this system of records may be disclosed to officials of labor organizations recognized under 5 U.S.C. chapter 71 when relevant and necessary to their duties of exclusive representation.
17. *Media and the Public*—A record in this system of records may be disclosed to the news media and the public, with the approval of the USPTO’s Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information or when disclosure is necessary to preserve confidence in the integrity of USPTO or is necessary to demonstrate the accountability of USPTO’s officers, employees, or individuals covered by the system; except to the extent the USPTO determines that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS: The USPTO maintains records in this system in electronic form.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS: The USPTO retrieves records in this system by one or more of the following: registered user name or email address, account holder name, deposit account number, bank account number, bank routing number, credit or debit card number, name on card, check number, and by other transaction numbers or information. The files are searchable in a database available only to authorized personnel.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records in the system are maintained in accordance with the NARA approved USPTO Records Controls Schedules N1-241-05-001:5; N1-241-06-002:4; N1-241-06-002:6; N1-241-10-001:10.3; and General Records Schedules 1.1 and 3.2.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS: The USPTO safeguards records in this system according to applicable rules and policies, including all applicable automated systems security and access policies. Information systems are maintained in areas accessible only to authorized personnel and in buildings protected by security systems and security guards. The electronic records stored in this system of records can be accessed for maintenance only by authorized personnel. The USPTO has imposed strict controls to minimize the risk of compromising the information that is being stored. Access to the information system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

RECORD ACCESS PROCEDURES: Individuals can access their records by logging into their account to view, modify, or retrieve records.

Individuals can also request access to their records by mailing a written request to the Privacy Act Officer, Office of General Law, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. The request should include the information requested pursuant to the provisions for making requests for records appearing at 37 CFR 102.24.

CONTESTING RECORD PROCEDURES: The procedures for contesting or requesting amendment of information by the individual concerned appear in 37 CFR 102.27. Requests from individuals should be submitted as stated in the Record Access Procedures section above.

NOTIFICATION PROCEDURES: Individuals seeking to determine whether this system of records contains information about themselves can send a written request to the System Manager at the address above or to the address provided in 37 CFR 102.23, which sets forth procedures for making inquiries about records covered by the Privacy Act. Requesters should include all required information in accordance with 37 CFR 102.23.

EXEMPTIONS PROMULGATED FOR THE SYSTEM: None.

HISTORY:

COMMERCE/PAT-TM-10, Patent Deposit Accounts System, 72 FR 45009 (August 10, 2007);

COMMERCE/PAT-TM-10, Deposit Accounts and Electronic Funds Transfer Profiles, 71 FR 38387 (July 6, 2006).

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