

**U.S. Department of Commerce
U.S. Patent and Trademark Office**



**Privacy Threshold Analysis
for the
Intellectual Property Leadership Management Support System
(IPLMSS)**

U.S. Department of Commerce Privacy Threshold Analysis
U.S. Patent and Trademark Office/ Intellectual Property Leadership
Management Support System

Unique Project Identifier: PTOL-001-00

Introduction: This Privacy Threshold Analysis (PTA) is a questionnaire to assist with determining if a Privacy Impact Assessment (PIA) is necessary for this IT system. This PTA is primarily based from the Office of Management and Budget (OMB) privacy guidance and the Department of Commerce (DOC) IT security/privacy policy. If questions arise or further guidance is needed in order to complete this PTA, please contact your Bureau Chief Privacy Officer (BCPO).

Description of the information system and its purpose:

a) *Whether it is a general support system, major application, or other type of system*

IPLMSS is a master Automated Information System (AIS) which facilitates grouping and managing 12 general support and separately boundaried AISs that collectively support the United States Patent and Trademark Office's (USPTO) Director; Deputy Director; Office of the General Counsel (OGC), including OGC's components the Office of General Law (OGL), Office of the Solicitor, and Office of Enrollment and Discipline (OED); Trademark Trial and Appeal Board (TTAB); Patent Trial and Appeal Board (PTAB); Office of Patent Training (OPT); and Office of Policy and International Affairs (OPIA).

b) *System location*

The IPLMSS resides at the USPTO facilities located in Alexandria, Virginia.

c) *Whether it is a standalone system or interconnects with other systems (identifying and describing any other systems to which it interconnects)*

The Intellectual Property Leadership Management Support System (IPLMSS) is a master AIS that interconnects with the following separately accredited USPTO master AIS;

Trademark Processing System - Internal Systems (TPS-IS) – PTOT-003-00 consists of several AIS that are used in the automated processing of trademark applications.

PCAPS-IP Patent Capture and Application Processing System - Capture and Initial Processing (PCAPS-IP) – PTO-006-00 consists of several AIS that facilitate the automated processing of patent applications.

Patent Capture and Application Processing System - Examination Support (PCAPS-ES) –

PTOP-005-00 consists of several AIS that enable patent examiners and public users to search and retrieve application data and images and patent examiners and patent applicants to identify individuals and organizations with intellectual property, pre-grant, and published applications.

Patent Trial and Appeal Board End to End (PTAB-E2E) – PTO-010-00 is an AIS that conducts trials, including inter partes, post-grant, and covered business method patent reviews and derivation proceedings, hears appeals from adverse examiner decisions in patent applications and reexamination proceedings, and renders decisions in interferences.

Agency Administrative Support System - (AASS) – PTO-002-00 consists of several AIS that provide consolidation of document imaging services, enables management and tracking of hardware/software assets, and enables Under Secretary of Commerce for Intellectual Property and USPTO Director to receive and respond to a wide range of official correspondences.

Fee Processing Next Generation (FPNG) – PTO-004-00 provides a modern payment AIS to the public and internal facing functionality that enables USPTO employees to support customers.

d) *The purpose that the system is designed to serve*

Adjudicated Case Tracking System (ACTS) – PTO-001-14 is an internal AIS and not a System of Record that supports USPTO's Patent Trial and Appeal Board (PTAB) with the tracking and reviewing of patent appeals and interference cases. ACTS records and manages appeals, tracks the status of cases, records PTAB decisions, and controls relevant information pertaining to each case. ACTS does have metadata that includes public correspondence PII (name, phone, mailing/email address) and published Patents but no sensitive PII or BII. Information *may* be used in litigation.

Trademark Trial and Appeal Board VUE (TTABVUE) – PTO-001-11 is an AIS and is a System of Record. TTABVUE has internal web interfaces that facilitate OGC staff with internal information sharing and administrative matters. TTABVUE's public facing website provides the public to perform searches of publicly releasable TTAB proceeding files by entering the proceeding number, or search for proceedings by application number, registration number, mark, party, correspondent. The publicly available proceedings do not allow the public to view any confidential content. Public releasable information is posted via the normal processing of board proceedings using TTAB's internal system, TTABIS, and/or via a submission filed from ESTTA. Information *may* be used in litigation.

Electronic Freedom of Information Act (E-FOIA) - PTO-001-01 the E-FOIA is an AIS and a System of Record that provides transparency of the agency's decisions and information to the public in support of FOIA and/or Privacy requests. E-FOIA allows the public to perform FOIA queries to verify FOIA request status information only. The content within the E-FOIA system may include public and non-public releasable decision documents (BII) relating to patent applications. Only publicly releasable documents are made available to the

public. Also, the E-FOIA system includes a number of public-facing document libraries (aka, online FOIA Reading Rooms) whereby the public can browse to view publicly releasable OGC, PTAB, TTAB, and other decisions and documents of interest to the public. Information *may* be used in litigation.

Electronic System for Trademark Trials and Appeals (ESTTA) - PTOL-001-03 is an AIS and not a System of Record that supports administrative matters by providing the public with an online website to submit all filings to the Trademark Trial and Appeal Board (TTAB). Some information submitted may contain confidential BII. All of the information posted on this site is available to the public. Information *may* be used in litigation.

Freedom of Information Act Electronic Management System (FEMS) - PTOL-001-04 is an AIS and System of Record that supports the end to end processing of FOIA and Privacy Act requests from the public. FEMS maintains PTAB decision documents that are related to confidential patent applications (BII). FEMS redacts BII prior to sharing of publicly releasable information. FEMS automatically updates the status of the FOIA/Privacy requests as they proceed through the internal workflow processes. Public users use the E-FOIA AIS to view status of previously submitted FOIA request. Information *is not* used in litigation.

General Counsel Case Tracking System (GCCTS) - PTOL-001-05 is an internal legal practice management AIS and a System of Record that is used in administrative matters for docketing intellectual property cases and for managing documents and contacts. GCCTS may contain some sensitive PII. GCCTS is only accessible to authorized internal Office of the Solicitor users. Information *may* be used in litigation.

General Counsel Library System (GCLS) - PTOL-001-06 is an AIS and not a System of Record. GCLS is internally accessible to USPTO's Office of the General Counsel (OGC) and Office of Policy and International Affairs (OPIA) authorized users only. GCLS is used to manage the library's bibliographic catalogs of non-sensitive hardback or softback resource reference materials (i.e., federal codes, federal statutes, legal treatises, etc.). GCLS facilitates creation, updates and deletion of borrower catalog records and book order tracking. There is no PII/BII and may be used in litigations.

Office of Enrollment and Discipline Item Bank (OEDIB) – PTOL-001-08 is not a System of Record but a internally accessible web-based COTS AIS that authorized users in OED and OPT use to administer the examination questions item banks (i.e., repository updates, test creation, test grading, report generation and assessment delivery to participants, etc.) for patent practitioners, patent examiners and patent managers. Access to the examination answers are restricted since the assessments are used to validate patent practitioners, patent examiners and patent managers' qualifications. There is no PII/BII and is not used in litigations.

Office of Enrollment and Discipline Information System (OEDIS) – PTOL-001-09 is an AIS and is a System of Record that is used for administrative matters: OEDIS Core and OEDIS CI (Customer Interface). OEDIS Core used internally by OED to process patent practitioner

registration, maintain the practitioner roster and monitor practitioner investigative and disciplinary actions. OEDIS CI supports sharing information by enabling the public to submit registrations and allowing the public to browse and search the official roster of registered patent attorneys and agents. Content within OEDIS may include sensitive PII (i.e., name, phone number, mailing/email address, birthdate, citizenship, place of birth, education, reasonable accommodation information, and alien registration information) and there may be instances where it is required by law (e.g., FOIA/Privacy Act request) to be judiciously shared with only authorized parties. Information *may* be used in litigation.

Trademark Trial and Appeal Board Information System (TTABIS) – PTOL-001-10 is an internally integrated AIS and not a System of Record that supports the administrative activities of the TTAB: workflow processes, proceedings, proceeding status, generated actions, tracking of record data and report issuance. The system is web-based and accessed by authorized internal TTAB users only. Information is shared to the public through the customer service center by tracking and analyzing information and case requests from the public. Information *may* be used in litigation.

e-Discovery Software Suite (EDSS) - PTOL-001-14 is an internally managed COTS web-based AIS and not a System of Record that is restricted to authorized OGC users for administration of litigation holds and processing Electronically Stored Information (ESI). The system provides legal staff with functions for e-Discovery filtering, tagging, document redaction, document reviews, and preparing the ESI for production in a legal case. EDSS content may include sensitive PII/BII and there may be instances where it is required by law (e.g., FOIA/Privacy Act or e-Discovery requests) to be shared only with authorized parties. Information *may* be used in litigation.

Notice of Suit Processing System (NOSPS) – PTOL-001-13 is an internal web-based AIS and not a System of Record that supports OGC. NOSPS is not a System of Record. The system is restricted to OGC administrative users that scan and perform data entry on Notice of Suit documents received in the mail from the U.S. District Courts where suits are filed in cases relating to a Patent or Trademark. The system routes a copy of each processed notice to the respective Patent and Trademark electronic application files and provides a reporting capability for counts and status. Information *may* be used in litigation.

e) *The way the system operates to achieve the purpose*

IPLMSS's components provide the public with websites to allow the public to perform information requests (i.e., FOIA/Privacy requests) or information searches (i.e. TTABVUE trademark appeal status updates or FOIA status updates).

g) *Identify individuals who have access to information on the system*

Authorized and authenticated USPTO OGC personal, OGC staff and PTAB staff have controlled access E-FOIA, EDSS, FEMS, GCCTS, GCLS, ACTS, TTABVUE, ESTTA, OEDIB, OEDIS, TTABIS, and NOSPS internal features. The Department of Commerce (DOC) bureaus, other federal agencies, state/local and general public have general access to TTABVUE, E-FOIA, ESTTA, FEMS, and OEDIS (customer interface). TTABIS shares

public information through the customer service center. System administrators have access to all IPLMSS application

h) How information in the system is retrieved by the user

The general public may retrieve public releasable information by either the TTABVUE, E-FOIA, ESTTA, FEMS, and OEDIS (customer interface), in-person, Mail/Fax or email. USPTO’s OGC personal and staff have authorized-restricted access.

i) How information is transmitted to and from the system

Information may be transmitted to/from IPLMSS online web portals, email, Mail/Fax and in-person delivery.

Questionnaire:

1. What is the status of this information system?

- This is a new information system. *Continue to answer questions and complete certification.*
- This is an existing information system with changes that create new privacy risks. *Complete chart below, continue to answer questions, and complete certification.*

Changes That Create New Privacy Risks (CTCNPR)					
a. Conversions		d. Significant Merging		g. New Interagency Uses	
b. Anonymous to Non-Anonymous		e. New Public Access		h. Internal Flow or Collection	
c. Significant System Management Changes		f. Commercial Sources		i. Alteration in Character of Data	
j. Other changes that create new privacy risks (specify):					

- This is an existing information system in which changes do not create new privacy risks, and there is not a SAOP approved Privacy Impact Assessment. *Continue to answer questions and complete certification.*
- This is an existing information system in which changes do not create new privacy risks, and there is a SAOP approved Privacy Impact Assessment (version 01-2015 or later). *Skip questions and complete certification.*

2. Is the IT system or its information used to support any activity which may raise privacy concerns?

NIST Special Publication 800-53 Revision 4, Appendix J, states “Organizations may also engage in activities that do not involve the collection and use of PII, but may nevertheless raise privacy concerns and associated risk. The privacy controls are equally applicable to those activities and can be used to analyze the privacy risk and mitigate such risk when necessary.” Examples include, but are not limited to, audio recordings, video surveillance, building entry readers, and electronic purchase transactions.

- Yes. *Please describe the activities which may raise privacy concerns.*

No

3. Does the IT system collect, maintain, or disseminate business identifiable information (BII)?

As per DOC Privacy Policy: "For the purpose of this policy, business identifiable information consists of (a) information that is defined in the Freedom of Information Act (FOIA) as "trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential." (5 U.S.C.552(b)(4)). This information is exempt from automatic release under the (b)(4) FOIA exemption. "Commercial" is not confined to records that reveal basic commercial operations" but includes any records [or information] in which the submitter has a commercial interest" and can include information submitted by a nonprofit entity, or (b) commercial or other information that, although it may not be exempt from release under FOIA, is exempt from disclosure by law (e.g., 13 U.S.C.)."

Yes, the IT system collects, maintains, or disseminates BII about: *(Check all that apply.)*

Companies

Other business entities

No, this IT system does not collect any BII.

4. Personally Identifiable Information

4a. Does the IT system collect, maintain, or disseminate personally identifiable information (PII)?

As per OMB 07-16, Footnote 1: "The term 'personally identifiable information' refers to information which can be used to distinguish or trace an individual's identity, such as their name, social security number, biometric records, etc... alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, mother's maiden name, etc..."

Yes, the IT system collects, maintains, or disseminates PII about: *(Check all that apply.)*

DOC employees

Contractors working on behalf of DOC

Members of the public

No, this IT system does not collect any PII.

If the answer is "yes" to question 4a, please respond to the following questions.

4b. Does the IT system collect, maintain, or disseminate PII other than user ID?

Yes, the IT system collects, maintains, or disseminates PII other than user ID.

- No, the user ID is the only PII collected, maintained, or disseminated by the IT system.

4c. Will the purpose for which the PII is collected, stored, used, processed, disclosed, or disseminated (context of use) cause the assignment of a higher PII confidentiality impact level?

Examples of context of use include, but are not limited to, law enforcement investigations, administration of benefits, contagious disease treatments, etc.

- Yes, the context of use will cause the assignment of a higher PII confidentiality impact level.
- No, the context of use will not cause the assignment of a higher PII confidentiality impact level.

If any of the answers to questions 2, 3, 4b, and/or 4c are “Yes,” a Privacy Impact Assessment (PIA) must be completed for the IT system. This PTA and the approved PIA must be a part of the IT system’s Assessment and Authorization Package.

CERTIFICATION

I certify the criteria implied by one or more of the questions above **apply** to the Intellectual Property Leadership Management Support System and as a consequence of this applicability, I will perform and document a PIA for this IT system.

Name of System Owner (SO): Dawei Jiang

Signature of SO: _____
Users, Jiang, Dawei
Digitally signed by Users, Jiang, Dawei
Date: 2019.10.02 13:53:36 -04'00'

Date: _____

Name of Chief Information Security Officer (CISO): _____
Don Watson

Signature of CISO: _____
Users, Ranasinghe, Saji
Digitally signed by Users, Ranasinghe, Saji
Date: 2019.10.02 14:36:50 -04'00'

Date: _____

Name of Authorizing Official (AO) & Bureau Chief Privacy Officer (BCPO): _____
Henry J. Holcombe

Signature of AO & BCPO: _____
Users, Holcombe, Henry
Digitally signed by Users, Holcombe, Henry
Date: 2019.10.11 09:05:26 -04'00'

Date: _____