

§ 102.22 Definitions.

(a) All terms used in this subpart which are defined in 5 U.S.C. 552a shall have the same meaning herein.

(b) As used in this subpart:

(1) *Act* means the “Privacy Act of 1974, as amended (5 U.S.C. 552a)”.

(2) *Appeal* means a request by an individual to review and reverse an initial denial of a request by that individual for correction or amendment.

(3) *USPTO* means the United States Patent and Trademark Office.

(4) *Inquiry* means either a request for general information regarding the Act and this subpart or a request by an individual (or that individual’s parent or guardian) that USPTO determine whether it has any record in a system of records which pertains to that individual.

(5) *Person* means any human being and also shall include but not be limited to, corporations, associations, partnerships, trustees, receivers, personal representatives, and public or private organizations.

(6) *Privacy Officer* means a USPTO employee designated to administer this subpart.

(7) *Request for access* means a request by an individual or an individual’s parent or guardian to see a record which is in a particular system of records and which pertains to that individual.

(8) *Request for correction or amendment* means the request by an individual or an individual’s parent or guardian that USPTO change (either by correction, amendment, addition or deletion) a particular record in a system of records which pertains to that individual.

§ 102.23 Procedures for making inquiries.

(a) Any individual, regardless of age, who is a citizen of the United States or an alien lawfully admitted for permanent residence into the United States may submit an inquiry to USPTO. The inquiry should be made either in person at Crystal Park Two, 2121 Crystal Park Drive, Suite 714, Arlington, Virginia, or by mail addressed to the Privacy Officer, United States Patent and Trademark Office, WASHINGTON DC 20231 or to the official identified in the notification procedures paragraph of the systems of records notice published

in the FEDERAL REGISTER. If an individual believes USPTO maintains a record pertaining to that individual but does not know which system of records might contain such a record, the USPTO Privacy Officer will provide assistance in person or by mail.

(b) Inquiries submitted by mail should include the words “PRIVACY ACT INQUIRY” in capital letters at the top of the letter and on the face of the envelope. If the inquiry is for general information regarding the Act and this subpart, no particular information is required. USPTO reserves the right to require compliance with the identification procedures appearing at §102.24(d) where circumstances warrant. If the inquiry is a request that USPTO determine whether it has, in a given system of records, a record which pertains to the individual, the following information should be submitted:

(1) Name of individual whose record is sought;

(2) Individual whose record is sought is either a U.S. citizen or an alien lawfully admitted for permanent residence;

(3) Identifying data that will help locate the record (for example, maiden name, occupational license number, period or place of employment, etc.);

(4) Record sought, by description and by record system name, if known;

(5) Action requested (that is, sending information on how to exercise rights under the Act; determining whether requested record exists; gaining access to requested record; or obtaining copy of requested record);

(6) Copy of court guardianship order or minor’s birth certificate, as provided in §102.24(f)(3), but only if requester is guardian or parent of individual whose record is sought;

(7) Requester’s name (printed), signature, address, and telephone number (optional);

(8) Date; and,

(9) Certification of request by notary or other official, but only if

(i) Request is for notification that requested record exists, for access to requested record or for copy of requested record;

(ii) Record is not available to any person under 5 U.S.C. 552; and

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(iii) Requester does not appear before an employee of USPTO for verification of identity.

(c) Any inquiry which is not addressed as specified in paragraph (a) of this section or which is not marked as specified in paragraph (b) of this section will be so addressed and marked by USPTO personnel and forwarded immediately to the Privacy Officer. An inquiry which is not properly addressed by the individual will not be deemed to have been “received” for purposes of measuring the time period for response until actual receipt by the Privacy Officer. In each instance when an inquiry so forwarded is received, the Privacy Officer shall notify the individual that his or her inquiry was improperly addressed and the date the inquiry was received at the proper address.

(d)(1) Each inquiry received shall be acted upon promptly by the Privacy Officer. Every effort will be made to respond within ten working days (i.e., excluding Saturdays, Sundays and legal public holidays) of the date of receipt. If a response cannot be made within ten working days, the Privacy Officer shall send an acknowledgment during that period providing information on the status of the inquiry and asking for such further information as may be necessary to process the inquiry. The first correspondence sent by the Privacy Officer to the requester shall contain USPTO’s control number assigned to the request, as well as a note that the requester should use that number in all future contacts in order to facilitate processing. USPTO shall use that control number in all subsequent correspondence.

(2) If the Privacy Officer fails to send an acknowledgment within ten working days, as provided above, the requester may ask the General Counsel to take corrective action. No failure of the Privacy Officer to send an acknowledgment shall confer administrative finality for purposes of judicial review.

(e) An individual shall not be required to state a reason or otherwise justify his or her inquiry.

(f) Special note should be taken of the fact that certain agencies are responsible for publishing notices of systems of records having Government-wide application to other agencies, in-

cluding USPTO. The agencies known to be publishing these general notices and the types of records covered therein appear in an appendix to this part. The provisions of this section, and particularly paragraph (a) of this section, should be followed in making inquiries with respect to such records. Such records in USPTO are subject to the provisions of this part to the extent indicated in the appendix to this part. The exemptions, if any, determined by an agency publishing a general notice shall be invoked and applied by USPTO after consultation, as necessary, with that other agency.

§ 102.24 Procedures for making requests for records.

(a) Any individual, regardless of age, who is a citizen of the United States or an alien lawfully admitted for permanent residence into the United States may submit a request for access to records to USPTO. The request should be made either in person at Crystal Park Two, 2121 Crystal Drive, Suite 714, Arlington, Virginia, or by mail addressed to the Privacy Officer, United States Patent and Trademark Office, Washington, DC 20231.

(b) Requests submitted by mail should include the words “PRIVACY ACT REQUEST” in capital letters at the top of the letter and on the face of the envelope. Any request which is not addressed as specified in paragraph (a) of this section or which is not marked as specified in this paragraph will be so addressed and marked by USPTO personnel and forwarded immediately to the Privacy Officer. A request which is not properly addressed by the individual will not be deemed to have been “received” for purposes of measuring time periods for response until actual receipt by the Privacy Officer. In each instance when a request so forwarded is received, the Privacy Officer shall notify the individual that his or her request was improperly addressed and the date when the request was received at the proper address.

(c) If the request follows an inquiry under § 102.23 in connection with which the individual’s identity was established by USPTO, the individual need