

or persons for a given position or contract. Special note is made of the limitation on the extent to which this exemption may be asserted. The existence and general character of the infor-

mation exempted will be made known to the individual to whom it pertains. (c) At the present time, USPTO claims no exemption under 5 U.S.C. 552a(k) (3), (4), (6) and (7).

APPENDIX TO PART 102—SYSTEMS OF RECORDS NOTICED BY OTHER FEDERAL AGENCIES<sup>1</sup> AND APPLICABLE TO USPTO RECORDS AND APPLICABILITY OF THIS PART THERETO

Category of records	Other federal agency
Federal Personnel Records .....	Office of Personnel Management. <sup>2</sup>
Federal Employee Compensation Act Program .....	Department of Labor. <sup>3</sup>
Equal Employment Opportunity Appeal Complaints .....	Equal Employment Opportunity Commission. <sup>4</sup>
Formal Complaints/Appeals of Adverse Personnel Actions .....	Merit Systems Protection Board. <sup>5</sup>

<sup>2</sup>The provisions of this part do not apply to these records covered by notices of systems of records published by the Office of Personnel Management for all agencies. The regulations of OPM alone apply.

<sup>3</sup>The provisions of this part apply only initially to these records covered by notices of systems of records published by the U.S. Department of Labor for all agencies. The regulations of that department attach at the point of any denial for access or for correction or amendment.

<sup>4</sup>The provisions of this part do not apply to these records covered by notices of systems of records published by the Equal Employment Opportunity Commission for all agencies. The regulations of the Commission alone apply.

<sup>5</sup>The provisions of this part do not apply to these records covered by notices of systems of records published by the Merit Systems Protection Board for all agencies. The regulations of the Board alone apply.

**PART 104—LEGAL PROCESSES**

**Subpart A—General Provisions**

- Sec.
- 104.1 Definitions.
- 104.2 Address for mail and service; telephone number.
- 104.3 Waiver of rules.
- 104.4 Relationship of this Part to the Federal Rules of Civil and Criminal Procedure.

**Subpart B—Service of Process**

- 104.11 Scope and purpose.
- 104.12 Acceptance of Service of Process.

**Subpart C—Employee Testimony and Production of Documents in Legal Proceedings**

- 104.21 Scope and purpose.
- 104.22 Demand for testimony or production of documents.
- 104.23 Expert or opinion testimony.
- 104.24 Demands or requests in legal proceedings for records protected by confidentiality statutes.

**Subpart D—Employee Indemnification**

- 104.31 Scope.
- 104.32 Procedure for requesting indemnification.

<sup>1</sup>Other than systems of records noticed by the Department of Commerce. Where the system of records applies only to USPTO, these regulations apply. Where the system of records applies generally to components of

**Subpart E—Tort Claims**

- 104.41 Procedure for filing claims.
  - 104.42 Finality of settlement or denial of claims.
- AUTHORITY: 35 U.S.C. 2(b)(2), 10, 23, 25; 44 U.S.C. 3101, except as otherwise indicated.
- SOURCE: 66 FR 47389, Sept. 12, 2001, unless otherwise noted.

**Subpart A—General Provisions**

**§ 104.1 Definitions.**

*Demand* means a request, order, or subpoena for testimony or documents for use in a legal proceeding.

*Director* means the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office (*see* § 1.9(j)).

*Document* means any record, paper, and other property held by the Office, including without limitation, official letters, telegrams, memoranda, reports, studies, calendar and diary entries, maps, graphs, pamphlets, notes, charts, tabulations, analyses, statistical or informational accumulations, any kind of summaries of meetings and

the Department of Commerce, the regulations of that department attach at the point of any denial for access or for correction or amendment.

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conversations, film impressions, magnetic tapes, and sound or mechanical reproductions.

*Employee* means any current or former officer or employee of the Office.

*Legal proceeding* means any pretrial, trial, and posttrial stages of existing or reasonably anticipated judicial or administrative actions, hearings, investigations, or similar proceedings before courts, commissions, boards or other tribunals, foreign or domestic. This phrase includes all phases of discovery as well as responses to formal or informal requests by attorneys or others involved in legal proceedings.

*Office* means the United States Patent and Trademark Office, including any operating unit in the United States Patent and Trademark Office, and its predecessors, the Patent Office and the Patent and Trademark Office.

*Official business* means the authorized business of the Office.

*General Counsel* means the General Counsel of the Office.

*Testimony* means a statement in any form, including personal appearances before a court or other legal tribunal, interviews, depositions, telephonic, televised, or videotaped statements or any responses given during discovery or similar proceedings, which response would involve more than the production of documents, including a declaration under 35 U.S.C. 25 or 28 U.S.C. 1746.

*United States* means the Federal Government, its departments and agencies, individuals acting on behalf of the Federal Government, and parties to the extent they are represented by the United States.

[66 FR 47389, Sept. 12, 2001, as amended at 68 FR 14339, Mar. 25, 2003]

### § 104.2 Address for mail and service; telephone number.

(a) Mail under this part should be addressed to General Counsel, United States Patent and Trademark Office, P.O. Box 15667, Arlington, VA 22215.

(b) Service by hand should be made during business hours to the Office of the General Counsel, Crystal Park Two, Suite 905, 2121 Crystal Drive, Arlington, Virginia.

(c) The Office of the General Counsel may be reached by telephone at 703-308-2000 during business hours.

### § 104.3 Waiver of rules.

In extraordinary situations, when the interest of justice requires, the General Counsel may waive or suspend the rules of this part, sua sponte or on petition of an interested party to the Director, subject to such requirements as the General Counsel may impose. Any petition must be accompanied by the petition fee set forth in § 1.17(h) of this title.

### § 104.4 Relationship of this Part to the Federal Rules of Civil or Criminal Procedure.

Nothing in this part waives or limits any requirement under the Federal Rules of Civil or Criminal Procedure.

## Subpart B—Service of Process

### § 104.11 Scope and purpose.

(a) This subpart sets forth the procedures to be followed when a summons and complaint is served on the Office or on the Director or an employee in his or her official capacity.

(b) This subpart is intended, and should be construed, to ensure the efficient administration of the Office and not to impede any legal proceeding.

(c) This subpart does not apply to subpoenas, the procedures for which are set out in subpart C.

(d) This subpart does not apply to service of process made on an employee personally on matters not related to official business of the Office or to the official responsibilities of the employee.

### § 104.12 Acceptance of service of process.

(a) Any summons and complaint to be served in person or by registered or certified mail or as otherwise authorized by law on the Office, on the Director, or on an employee in his or her official capacity, shall be served as indicated in § 104.2.

(b) Any employee of the Office served with a summons and complaint shall immediately notify, and shall deliver the summons and complaint to, the Office of the General Counsel.