



## **Proposed guidelines for ensuring and maximizing the quality, objectivity, utility, and integrity of the information disseminated by the USPTO**

### **Background**

Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Public Law 106-554; H.R. 5658) directed the Office of Management and Budget (OMB) to issue government-wide guidelines that "provide policy and procedural guidance to Federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by Federal agencies." OMB issued these guidelines, which were published in the Federal Register on January 3, 2002, at 67 FR 369-378; corrected on February 5, 2002, at 67 FR 5365; and reprinted February 22, 2002, at 67 FR 8452. Federal agencies were directed by OMB to (A) issue their own guidelines ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by the agency; (B) establish administrative mechanisms allowing affected persons to seek and obtain correction of information maintained and disseminated by the agency; (C) report periodically to the Director of OMB - (i) the number and nature of complaints received by the agency regarding the accuracy of information disseminated by the agency and; (ii) how such complaints were handled by the agency.

### **Introduction**

This document outlines the USPTO's proposed guidelines for ensuring and maximizing the quality, objectivity, utility, and integrity of the information disseminated by the USPTO. The USPTO is fully committed to ensuring and maximizing the quality of information that it disseminates and fully supports the quality standards outlined by the OMB guidelines. The USPTO is in compliance with OMB Circular A-130. Historically, a variety of mechanisms for achieving patent and trademark information quality have been maintained at the USPTO. The USPTO's proposed guidelines complement any pre-existing mechanisms for information quality at the USPTO. All pre-existing mechanisms for information quality remain in place. In addition to these pre-existing mechanisms, a new procedure for "allowing affected persons to seek and obtain correction of information maintained and disseminated by the agency" will be in place by October 1, 2002.

### **USPTO/CIO Responsibilities**

The Chief Information Officer of the USPTO will be responsible for agency compliance with the USPTO guidelines, pursuant to the OMB guidelines; the administrative mechanisms to track complaints, appeals, resolutions; and on a fiscal-year basis, submit a report to the Director of OMB providing information (both quantitative and qualitative, where appropriate) on the number and nature of complaints received by the agency regarding agency compliance with the OMB guidelines and how such complaints were resolved.

### **USPTO/Business Unit Responsibilities**

Business units within the USPTO will make the decisions to correct or not to correct their respective information, and decide appeals. Individuals within business units will be required to update or close Enterprise Asset Management System (EAMS) records with decisions/or steps taken to resolution and communicate the decisions to the affected person(s) electronically via e-mail or telephone.

USPTO Wide Responsibilities (If you are not already doing quality assurance prior to disseminating

information, you need to incorporate this Pre-Dissemination Review Process)

The pre-dissemination review process allows the USPTO to substantiate the quality of disseminated information through documentation or other means appropriate to the nature and importance of the information, balanced against resources required and the time available.

Pre-dissemination review of information disseminated by the USPTO shall be incorporated into the normal review processes for each type of information to take advantage of inherent quality checks, which are part of the process of formulating the information. This review shall be at a level appropriate to the information, taking into account the information's importance, balanced against the resources required and the time available. The USPTO's business units shall treat information quality as integral to every step of an agency's development of information, including creation, collection, maintenance, and dissemination.

Pre-dissemination review can be accomplished in a number of ways, including but not limited to combinations of the following:

- a. Active personal review of information by supervisory and management layers, either by reviewing each individual dissemination, or selected samples, or by any other reasonable method.
- b. Use of quality check lists, charts, statistics, or other means of tracking quality, completeness, and usefulness.
- c. Process design and monitoring to ensure that the process itself will impose checks on information quality.
- d. Peer monitoring.
- e. Formal external peer review or internal peer review.
- f. Use of management controls.
- g. Any other method which serves to enhance the accuracy, reliability, and objectivity of the information.

### **Important Dates**

- By May 1, 2002, federal agencies must publish a notice of availability of their proposed guidelines in the Federal Register, and post the proposed guidelines on the agency's website, to provide an opportunity for public comment.
- By July 1, 2002, federal agencies upon consideration of public comment and after appropriate revision, must submit revised guidelines to OMB for review regarding consistency with the OMB guidelines.
- By October 1, 2002, after OMB review and completion of the final guidelines, federal agencies must publish a notice of availability of their final guidelines in the Federal Register, and post the final guidelines on the agency's website.
- October 1, 2002, final guidelines are in affect and are retroactive.
- January 1, 2004, the 1st annual fiscal-year report to the Director of OMB is due covering the complaints, appeals, resolutions from October 1, 2002 - September 30, 2003.

### **Comments**

Comments will be accepted until May 31, 2002. Internal or external parties interested in presenting written comments on the topics presented, may submit their written comments by:

U.S. Postal Service:  
United States Patent and Trademark Office  
Information Products Division  
ATTN: Data Quality  
2231 Crystal Drive, Suite 441  
Arlington, VA 22202

Electronic Mail:  
[Data.Quality@uspto.gov](mailto:Data.Quality@uspto.gov)

Facsimile:  
Information Products Division  
ATTN: Data Quality  
(703) 306-2737

#### **For Additional Information Contact**

Bruce Cox - Director, Information Products Division [Bruce.Cox@uspto.gov](mailto:Bruce.Cox@uspto.gov) (703) 306-2606; or  
Christopher Leithiser - Computer Scientist, Information Products Division  
[Chris.Leithiser@uspto.gov](mailto:Chris.Leithiser@uspto.gov) (703) 306-2622

#### **USPTO Standard of Quality for Disseminated Information**

The USPTO will apply the following standards of information quality to all information disseminated, as defined by the OMB guidelines by either meeting or exceeding the guidelines presented in OMB Circular A-130.

"Information" means any communication or representation of knowledge such as facts or data, in any medium or form, including textual, numerical, graphic, or narrative. This definition includes information that is disseminated from a web page, but does not include the provision of hyperlinks to information that others disseminate. This definition does not include opinions, where the presentation makes it clear that what is being offered is someone's opinion rather than fact or the Office's views.

"Dissemination" means Office initiated or sponsored distribution of information to the public. Disseminated does not include distribution limited to government employees or Office contractors; intra-or inter- agency use or sharing of government information; and responses to requests for Office records under the Freedom of Information Act (FOIA), the Privacy Act, the Federal Advisory Committee Act or other similar law. This definition also does not include distribution limited to correspondence with individuals or persons, press releases, archival records, public filings, subpoenas or adjudicative processes.

"Quality" is an encompassing term comprising utility, objectivity, and integrity. Therefore the guidelines sometimes refer to these four statutory terms collectively as "quality".

#### **Utility**

Information disseminated to the public shall be useful to its intended users. "Useful" means that the content of the information is helpful, beneficial, or serviceable to its intended users, or that the information supports the usefulness of other disseminated information by making it more accessible or easier to read, see, understand, obtain or use. Where the usefulness of information will be enhanced by greater transparency, care shall be taken that sufficient background and detail is available, either with the disseminated information or through other means, to maximize the usefulness of the information. The level of such background and detail shall be commensurate with the importance of the particular information, balanced against the resources required, and be

appropriate to the nature and timeliness of the information to be disseminated.

### **Objectivity**

Information disseminated by the USPTO shall be presented in a clear, complete, and unbiased manner, and in a context which enhances usability to the intended audience. The sources of the disseminated information shall be identified to the extent possible, consistent with confidentiality, privacy, and security considerations and protections, and taking into account timely presentation, the medium of dissemination, and the importance of the information, balanced against the resources required and the time available.

Information disseminated by the USPTO shall be reliable and accurate to an acceptable degree of error as determined by factors such as the importance of the information, its intended use, time sensitivity, expected degree of permanence, relation to the primary mission(s) of the disseminating office, and the context of the dissemination, balanced against the resources required and the time available. A body of information is considered to be reliable if experience shows it to be generally accurate. Accurate information, in the case of non-scientific, non-financial, non-statistical information, means information, which is reasonably determined to be factually correct in the view of the disseminating office as of the time of dissemination.

### **Integrity**

Information disseminated by the USPTO to the public, independent of the specific distribution mechanism, shall be safeguarded from improper access, modification, or destruction. The USPTO will ensure that disseminated information, including original and supporting information, is protected commensurate with the risk and magnitude of harm that could result from the loss, misuse, or unauthorized access to or modification of such information.

All electronic information disseminated to the public by the USPTO adheres to the standards set out in Appendix III, "Security of Automated Information Resources," OMB Circular A-130, the Computer Security Act of 1987, Federal Managers Financial Integrity Act of 1983, and Federal Information Systems Controls. Compliance with these guidelines is detailed in the USPTO's Automated Information System Security Controls Manual.

Confidentiality of personal data collected by the USPTO is safeguarded under the Privacy Act and Title 13 of the U.S. Code. For its formal statistical data releases to the public, the Office maintains strict procedures to protect premature disclosure of this data before the publicly scheduled date and time of the release. The Privacy Policy Statement for the USPTO is available on the USPTO Website at: [www.uspto.gov/web/doc/privact.htm](http://www.uspto.gov/web/doc/privact.htm)

Further, the USPTO makes use of PKI (Public Key Infrastructure) technologies and methods to secure transactions and information. Without proper identification (Customer Numbers and Digital Certificates), some features on the website are not available, such as pending application statuses or financial transactions. The USPTO makes use of SSL (Secure Socket Layers) for its financial transaction processing.

### **USPTO Existing Mechanisms "allowing affected persons to seek and obtain correction of information maintained and disseminated by the agency"**

The USPTO already has mechanisms to correct or change patent grants and registered trademarks as well as adjudicative procedures for appealing examination process decisions. Full details of the existing mechanisms are available in the Manual of Patent Examining Procedure (MPEP) and the Trademark Manual of Examining Procedure (TMEP) both available on the USPTO Website at: [www.uspto.gov/web/offices/pac/mpep/index.html](http://www.uspto.gov/web/offices/pac/mpep/index.html) and [www.uspto.gov/web/offices/tac/tmep/index.html](http://www.uspto.gov/web/offices/tac/tmep/index.html)

**Existing mechanisms covered in the MPEP and TMEP include:**

- Certificates of Correction (35 U.S.C. 254 and 255). Certificates of Corrections are used to correct typographical errors and misspellings in patent grants and trademark registrations but cannot be used to add new matter.
- Disclaimers (35 U.S.C. 253). The patentee may disclaim one or more claims of his/her patent by filing a disclaimer in the Office.
- Reissues (35 U.S.C. 251). If defects are found in the original patent, the patentee may apply for a reissue patent with proposed changes to correct these errors. Following an examination, a reissue patent may be granted to replace the original for the balance of the unexpired term. However, the nature of the changes that can be made by means of the reissue are rather limited; new matter cannot be added.
- Reexaminations (35 U.S.C. 302). Any person may file a request for reexamination of a patent, along with the required fee, on the basis of prior art consisting of patents or printed publications. At the conclusion of the reexamination proceedings, a certificate setting forth the results of the reexamination proceeding is issued.
- Board of Patent Appeals and Interferences (35 U.S.C. 6). The Board has authority to review adverse decisions of examiners in those situations where a written appeal is submitted by a dissatisfied patent applicant.
- Trademark Trial and Appeal Board (15 U.S.C. 1051). The Board has jurisdiction over appeals from an Examining Attorney's final refusal to register a mark in an application.

### **USPTO Categories of Information**

The USPTO disseminates three categories of information: Patents, Trademarks, and General Information. The proposed guidelines for ensuring and maximizing the quality, objectivity, utility, and integrity of the information disseminated by the USPTO will apply to these categories of disseminated information. Information from these three categories is disseminated by a variety of methods, via the USPTO Website, electronically by File Transfer Protocol (FTP), optical disc, magnetic tape, facsimile, and paper.

### **Information Not Covered by the OMB Guidelines (Exemptions)**

Certain types of information are exempt from compliance with the OMB guidelines. The OMB guidelines do not include distribution limited to government employees or agency contractors or grantees; intra- or inter- agency use or sharing of government information; and responses to requests for agency records under the Freedom of Information Act (FOIA), the Privacy Act, the Federal Advisory Committee Act or other similar law. Also not included is correspondence with individuals or persons, press releases, archival records, public filings, subpoenas or adjudicative processes.

### **Information Not Covered by the USPTO Guidelines (Exemptions)**

In addition to the information not covered by the OMB guidelines the following types of information disseminated by the USPTO are not covered by the USPTO guidelines and why:

Patent Applications - These documents are public filings and are not covered by the OMB guidelines.

Patent Grants - The patent examination process is an adjudicative process (See the MPEP) and the resultant patent grant documents are not covered by the OMB guidelines.

Patent Assignments - These documents are public filings and are not covered by the OMB guidelines.

Patent Petitions - These documents are public filings and are not covered by the OMB guidelines.

Trademark Applications - These documents are public filings and are not covered by the OMB guidelines.

Registered Trademarks - The trademark examination process is an adjudicative process (See the TMEP) and the resultant registered trademark documents are not covered by the OMB guidelines.

Trademark Assignments - These documents are public filings and are not covered by the OMB guidelines.

**NOTE: May need to expand this list. Also need to determine what are archival records for non-exempt types of information.**

### **Affected Person Responsibilities**

#### **A. Requests to correct USPTO disseminated information; Patents, Trademarks, or General Information; that is not exempt from the USPTO guidelines.**

1. Within 60 days of the dissemination of information from the USPTO, any person who believes he or she is affected by that disseminated information, may seek, where appropriate, timely correction of such information. An affected person may submit a request directly to the USPTO, in accordance with the procedures contained in these guidelines.

NOTE: Timely correction - based on the frequency of the information weekly, monthly, bimonthly, semi-annual, yearly, etc.

2. Initial requests must first be made through the centralized USPTO Help Desk for tracking and reporting purposes. The USPTO Help Desk will route requests to the appropriate business unit within the USPTO.

3. Requests must be made using the following methods:

a. Telephone:

800-786-9199 or 703-308-4357 - at the prompt, press 2 for Electronic Business Systems (EBS) technical questions

Please let the USPTO Help Desk person know that you are reporting a Data Quality problem.

b. Electronic Mail:

[Helpdesk@uspto.gov](mailto:Helpdesk@uspto.gov)

Please include "Data Quality" in the Subject Line.

4. At a minimum, initial requests must include:

a. requester's name

b. requester's telephone number

c. requester's electronic mail address

d. an accurate citation to or description of the particular information disseminated which is the subject of the request

- e. the date and information source from which the requester obtained the information (must be within 60 days of the dissemination of information)
- f. an explanation of:
  - i. why the requester believes that the subject information is not correct
  - ii. how the requester is affected by the dissemination of the information

5. Affected persons will be given an Electronic Asset Management System (EAMS) ticket number for each request submitted via telephone or electronic mail.

6. Within 30 days the business unit will notify the requester via e-mail or by phone of the initial decision to correct, or not to correct. If correcting, an estimate of when it will be corrected. If not correcting, an explanation why. Must let requester know that they can appeal the initial adverse decision, not to correct, within 30 days.

7. First Appeals follow the same path as Initial Requests, with one exception:

- a. Upon receipt of an initial adverse decision, not to correct; the initial requester has 30 days to submit a first appeal.
- b. To maintain continuity, the USPTO requires the initial request's Electronic Asset Management System (EAMS) ticket number.
- c. If the first appeal requester is not able to provide the previous EAMS ticket number, then the request will be considered an initial request and not an appeal.
- d. Within 30 days, the first level supervisor of the business unit will notify the requester via e-mail or by phone of the first appeal decision to correct, or not to correct. If correcting, an estimate of when it will be corrected. If not correcting, an explanation why.

8. Second Appeal (To Be Determined)

- a. Upon receipt of a second adverse decision, not to correct from the first appeal; the initial requester has 30 days to submit a second appeal.
- b. To maintain continuity, the USPTO requires the initial request's and the first appeal's Electronic Asset Management System (EAMS) ticket numbers.
- c. If the second appeal requester is not able to provide both of the previous EAMS ticket numbers, then the request will be considered an initial request and not a second appeal.
- d. Within 30 days, the second level supervisor of the business unit will notify the requester via e-mail or by phone of the second appeal decision to correct, or not to correct. If correcting, an estimate of when it will be corrected. If not correcting, an explanation why.

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