



UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE OF THE GENERAL COUNSEL

February 22, 2019

VIA EMAIL

Mr. Gregory Aharonian

Re: *Freedom of Information Act (FOIA) Request No. F-19-00042*

Dear Mr. Aharonian:

The United States Patent and Trademark Office (USPTO) FOIA Office has received your e-mail dated Tuesday, November 27, 2018 requesting a copy of the following documents pursuant to the provisions of the Freedom of Information Act, 5 U.S.C. § 552:

- 1) Request any USPTO documents (memos, opinions, studies, outside correspondences, etc.) that address the issue of whether or not MPEP Section 2106.04(a)(1) satisfies the Constitutional requirement to provide guidance and public notice that satisfies Due Process requirements as established by caselaw. More than likely, any such document will include the phrase "Due Process" or "vagueness" (query terms for any electronic search of your documents).
- 2) Any USPTO statistics on the percentage of U.S. Patent Applications that include, in the First Office Action, a 101-rejection based on the term "abstract".

Item 1

The Agency has no records that address the issue of whether or not MPEP Section 2106.04(a)(1) satisfies the Constitutional requirement to provide guidance and public notice that satisfies Due Process requirements as established by caselaw.

Item 2

The USPTO identified data that is responsive to Item 2 of your request. A copy of this material is enclosed.

Your request is considered complete with full disclosure. However, you have the right to appeal this initial decision to the Deputy General Counsel, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. An appeal must be received within 90 calendar days from the date of this letter. See 37 C.F.R. § 102.10(a). The appeal must be in writing. You must include a copy of your original request, this letter, and a statement of the reasons why the information should be made available and why this initial denial is in error. Both the letter and the envelope must be clearly marked "Freedom of Information Appeal."

You may contact the FOIA Public Liaison at 571-272-9585 for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

The cost of this request was less than \$20.00 and is therefore waived. See 37 C.F.R. § 102.11(d)(4).

Sincerely,



Tashiana Adams
USPTO FOIA Officer
Office of General Law

Enclosure