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July 22, 2021

USPTO FOIA Officer
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Re: Freedom of Information Act Request

Dear FOIA Officer:

The Software Freedom Conservancy is a not-for-profit § 501(c)(3) corporation. Pursuant to the Freedom of Information Act, 5 U.S.C. § 552(a), Software Freedom Conservancy hereby requests the following records from the U.S. Patent & Trademark Office (PTO).

Request.

1. Attached as Exhibit A are the first few pages of USPTO Administrative Order 217-02A, *Federal Register Publications and Rule Making, and Official Gazette Publications* as it stood in 2005. Please provide all versions of this Order issued or in effect from Oct. 1, 2012 to present.
2. All records that state USPTO policies or procedures for deciding whether or not to seek review from the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), or Small Business Administration (SBA), issued or in effect at any time between October 1, 2017 to present.
3. All documents directed to procedures and standards for preparing any submission for review by OMB, OIRA or SBA, issued or in effect at any time between October 1, 2017 to present.

Please provide the requested material in its native electronic form such as Excel, MS Word or PDF documents, preferably by email to pamela@chesteklegal.com.

Public Interest Fee Waiver


Software Freedom Conservancy requests a public interest fee waiver because the requested records directly concern and bear upon the government’s operations and activities, will be highly informative to the general public regarding the PTO’s policies, including on matters directly affecting thousands of patent and trademark holders and applicants. Upon receipt, we will make these records or their analysis publicly available on our website for use by journalists, scholars, students, and interested members of the public at no charge, and use the information in reports, newsletters, and other public disseminations to advance our educational mission. Therefore, disclosure of the requested information “is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester,”¹ a 501(c)(3) corporation.

Software Freedom Conservancy prefers to receive the documents by email, at **pamela@chesteklegal.com** or some other electronic form that preserves all document integrity.

We may be reached at the address below, if you have any questions.

Respectfully submitted,

SOFTWARE FREEDOM CONSERVANCY

By:  _____
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¹ 5 U.S.C. § 552(a)(4)(A)(iii); 37 C.F.R. § 102.11(k)(1).

Exhibit A

USPTO Administrative Order 217-02A

*Federal Register Publications and Rule Making, and
Official Gazette Publications*

UNITED STATES PATENT AND TRADEMARK OFFICE
FEDERAL REGISTER PUBLICATIONS AND RULE MAKING,
AND OFFICIAL GAZETTE PUBLICATIONS
Agency Administrative Order 217-02A

Date of Issuance: August 30, 2004
Effective Date: February 22, 2005

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FEDERAL REGISTER PUBLICATIONS AND RULE MAKING, AND OFFICIAL GAZETTE PUBLICATIONS

I. PURPOSE

This Order establishes a process for the effective review and clearance of Federal Register rule makings and Official Gazette publications. This Order establishes a process for consistent, effective, timely and expeditious review and clearance of such publications and rule makings.

II. SUMMARY OF CHANGES

A. The revised Agency Administrative Order changes are summarized as follows:

1. **Office of Primary Interest Rule Making/Federal Register Checklist.** This revised Agency Administrative Order includes an administrative checklist for use by the Office of Primary Interest (OPI) in requesting Regulatory Information Numbers (RIN), routing rules/notice packages, and assembling such packages for submission for the Under Secretary and Director's signature.

2. **Regulatory Information Data Forms.** Because the USPTO has direct access to the General Services Administration regulatory database, Regulatory Information Service Center/Office of Information and Regulatory Affairs (RISC)/OIRA Combined Information System (ROCIS), the Agency will instantaneously enter all regulatory data previously entered only semi-annually through the Unified Agenda. The use of the Regulatory Information Data (RID) Form obviates the necessity for the "Initial Clearance Description" provided in the original Agency Administrative Order. Instead, the Office of Primary Interest must now complete the RID Form and submit it to the Office of General Law (OGL) prior to the assignment of a RIN. No RINs will be issued without completion of the RID Form.

3. **Regulatory Flexibility Act Procedures.** The revised AAO implements procedures relating to the Agency's certification that proposed and final rule makings will not have a significant economic impact on a substantial number of small entities. Additionally, the AAO provides the Office of Primary Interest with specific guidelines that will assist the Office of General Law in determining whether a proposed or final rule making can be certified under the Regulatory Flexibility Act.

4. **Procedural Changes.** The revised AAO requires the Office of Primary Interest to provide the Office of General Law with factual information relating to proposed and final rule makings regarding the USPTO's compliance with various procedural requirements.