



OFFICE *of* GOVERNMENT INFORMATION SERVICES

June 20, 2016

Renee Wynn
Senior Agency Official for Privacy
National Aeronautics and Space Administration
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ADMINISTRATION

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Dear Ms. Wynn:

I write to you in your role as Senior Agency Official for Privacy for the Federal Communications Commission (FCC). Specifically, I write to inform you of and ask for your assistance with a Privacy Act issue that affects how the Office of Government Information Services (OGIS) carries out its statutory duties.

Created by the OPEN Government Act of 2007 and opened in September 2009 as the Freedom of Information Act (FOIA) Ombudsman, OGIS has the statutory mandate to review FOIA policies, procedures and compliance of administrative agencies, and to offer mediation services to resolve disputes between FOIA requesters and agencies. 5 U.S.C. § 552(h)(1)-(3). We advocate for neither the requester nor the agency, but for the FOIA process to work as intended.

As you know, the Privacy Act of 1974 protects FOIA and Privacy Act request and appeal files, prohibiting agencies from sharing information contained in those files without prior written consent of the requester or the existence of a routine use allowing such disclosure. Before OGIS facilitators can contact your agency FOIA units to discuss a FOIA or Privacy Act request or appeal, we must first obtain a signed and dated consent from the requester authorizing OGIS and any Federal department, agency or component to share with one another information and records related to the request.

Since opening our doors six years ago, OGIS has obtained the consent of several thousand requesters. However, that step increases the time between the receipt of a request for assistance and our contacting the agency to try to begin facilitating a resolution to a dispute.



June 20, 2016

Page 2

Moreover, requiring consent can be an obstacle when it is an agency seeking OGIS's assistance. Agencies must obtain consent from the requester before discussing an issue with OGIS; this may complicate situations in which agencies seek to prevent or resolve a dispute or to ask OGIS for help with difficult requests or requesters. Obtaining consent also may not be feasible when records are relevant to an OGIS review of an agency's policies, procedures or compliance.

To date, 12 Cabinet-level departments and eight agencies have revised their Privacy Act system of records notices (SORNs) to include an OGIS routine use. I write to request that you do the same by adding a routine use to your SORN. OGIS worked with the Department of Justice (DOJ) Office of Privacy and Civil Liberties to develop a model routine use (copy of DOJ SORN is attached for reference) that agencies can use for this purpose:

To the National Archives and Records Administration, Office of Government Information Services (OGIS), to the extent necessary to fulfill its responsibilities in 5 U.S.C. § 552(b), to review administrative agency policies, procedures and compliance with the Freedom of Information Act (FOIA), and to facilitate OGIS' offering of mediation services to resolve disputes between persons making FOIA requests and administrative agencies.

OGIS has observed that when an agency's Privacy Act SORN contains a routine use allowing the agency and OGIS to share information, efficiencies are built into the FOIA administrative process.

In the interest of transparency—and because this issue is important to our stakeholders—OGIS posts all of its correspondence with other agency officials on its website; this letter will also be posted. We ask that you respond to this request by July 20, 2016, and let us know your willingness to amend your agency's FOIA/PA SORN to include the OGIS-DOJ language provided in italics above. I would be happy to discuss this matter and answer any questions. I can be reached at Nikki.Gramian@nara.gov and at 202-741-5772.

Sincerely,



Nikki Gramian
Acting Director

Enclosure: Copy of DOJ FOIA/PA SORN
cc: David Weaver, Chief FOIA Officer, NASA

Street SW., Washington, DC 20436, telephone 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on October 8, 2010, based on a complaint and an amended complaint filed by Leviton Manufacturing Co., of Melville, New York ("Leviton"). 75 FR 62420 (Oct. 8, 2010). The complaint and amended complaint alleged violations of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain ground fault circuit interrupters and products containing the same by reason of infringement of claims 1-7, 9-11, 13-17, 23-26, and 32-36 of U.S. Patent No. 7,463,124 ("the '124 patent"); claims 1-11, 13-28, 30-59, 61-64, and 74-83 of U.S. Patent No. 7,737,809 ("the '809 patent"); and claims 1-4 and 8 of U.S. Patent No. 7,764,151 ("the '151 patent"). The notice of investigation named numerous respondents, and during the course of the investigation several of the respondents were found to be in default or were terminated on the basis of settlement agreements, consent orders, or withdrawn allegations. At the time of the evidentiary hearing, seven respondents remained in the investigation, consisting of Zhejiang Trimone Electric Science & Technology Co. Ltd., of Zhejiang, China ("Trimone"); Fujian Hongan Electric Co. Ltd., of Fujian, China ("Hongan"); TDE, Inc., of Bellevue, Washington ("TDE"); Shanghai ELE Manufacturing Corp., of Shanghai, China ("ELE"); Orbit Industries, Inc., of Los Angeles, California ("Orbit"); American Electric Depot Inc., of Fresh Meadows, New York ("AED"); and Shanghai Jia AO Electrical Co. ("Shanghai Jia").

On December 20, 2011, the presiding administrative law judge ("ALJ") issued his final initial determination ("ID") in this investigation finding that Leviton had not sufficiently shown that a domestic industry exists with respect to articles protected by the asserted patents. Accordingly, the ALJ found no violation of section 337.

On February 21, 2012, the Commission issued a notice that it had

determined to review the ID in its entirety and requested submissions from the parties on certain issues under review and from the parties and the public on the issues of remedy, the public interest, and bonding.

In response to the Commission's notice of review, Leviton, Trimone, Hongan, TDE, the Commission investigative attorney, and non-party Pass & Seymour, Inc. filed submissions and replies. Pass & Seymour, Inc. also submitted a motion for leave to file a sur-reply, which the Commission has denied.

Upon review of the final ID, the submissions received in response to the Commission's notice of review, and the record of the investigation, the Commission has determined that a violation of section 337 has been shown based on infringement of claims 1-4, 6, 8-11, 13, 15-16, 35-37, 39, and 41-46 of the '809 patent. The Commission has determined that certain claims of the '124 and '151 patents are invalid and no violation based on those patents has been shown.

The Commission has determined that the appropriate form of relief is as follows: (1) a general exclusion order prohibiting the unlicensed entry of ground fault circuit interrupters and products containing the same that infringe one or more of claims 1-4, 6, 8-11, 13, 15-16, 35-37, 39, and 41-46 of the '809 patent, and (2) cease and desist orders prohibiting defaulting respondents Menard, Inc., of Eau Claire, Wisconsin; Garvin Industries, Inc., of Franklin Park, Illinois; Aubuchon Co., Inc., of Westminister, Massachusetts; Westside Wholesale Electric & Lighting, Inc., of Los Angeles, California; New Aspen Devices Corporation, of Brooklyn, New York; American Ace Supply Inc., of San Francisco, California; Contractor Lighting & Supply, Inc., of Columbus, Ohio; Littman Bros. Energy Supplies, Inc., of Schaumburg, Illinois; Safety Plus, Inc., of McFarland, Wisconsin; Norcross Electric Supply Co. of Suwanee, Georgia; Royal Pacific Ltd. of Albuquerque, New Mexico; and Zhejiang Easting House Electric Co. of Zhejiang, China, from conducting any of the following activities in the United States: Importing, selling, marketing, advertising, distributing, offering for sale, transferring (except for exportation), and soliciting U.S. agents or distributors for ground fault circuit interrupters and products containing the same that infringe one or more of claims 1-4, 6, 8-11, 13, 15-16, 35-37, 39, and 41-46 of the '809 patent.

The Commission has further determined that the public interest

factors enumerated in subsections (d)(1) and (f) (19 U.S.C. 1337(d)(1), (f)) do not preclude issuance of the general exclusion order or the cease and desist orders. Finally, the Commission has determined that a bond of \$0.25 per unit is required to permit temporary importation of the articles in question during the period of Presidential review (19 U.S.C. 1337(j)). The Commission's orders and the record upon which it based its determination were delivered to the President and to the United States Trade Representative on the day of their issuance. The Commission has also notified the Secretary of the Treasury of the orders.

The Commission has terminated the investigation.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: April 27, 2012.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2012-10742 Filed 5-3-12; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

[CPCLO Order No. 010-2012]

Privacy Act of 1974; System of Records

AGENCY: United States Department of Justice.

ACTION: Modified System of Records.

SUMMARY: Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), the United States Department of Justice ("Department" or "DOJ") proposes to modify the system of records entitled "Freedom of Information Act, Privacy Act, and Mandatory Declassification Review Records (DOJ-004)," last published at 77 FR 16066 (Mar. 19, 2012). DOJ is modifying this notice by removing all references to "Ombudsman," a term used internally within the Office of Information Policy (OIP) for decades, and instead more clearly describing OIP's role as responding to inquiries regarding federal agency compliance with the Freedom of Information Act (FOIA); by revising routine use (f) in order to clarify that records may be provided to the National Archives and Records Administration, Office of Government Information Services (OGIS), for all purposes set forth in 5 U.S.C. 552(h)(2)(A-B) and (3); and by

revising one item in the Record Source Categories section to clearly indicate that agencies as well as individuals may be the source of compliance inquiries. The entire notice is being republished for ease of reference.

DATES: In accordance with 5 U.S.C. 552a(e)(4) and (11), the public is given a 30-day period in which to comment. Therefore, please submit any comments by June 4, 2012.

ADDRESSES: The public, Office of Management and Budget (OMB), and Congress are invited to submit any comments to the Department of Justice, Attn: Privacy Analyst, Office of Privacy and Civil Liberties, Department of Justice, National Place Building, 1331 Pennsylvania Avenue NW., Suite 1000, Washington, DC 20530-0001, or by facsimile to (202) 307-0693.

FOR FURTHER INFORMATION CONTACT: Carmen L. Mallon, Chief of Staff, Office of Information Policy, Department of Justice, Suite 11050, 1425 New York Avenue NW., Washington, DC 20530.

In accordance with 5 U.S.C. 552a(r), the Department has provided a report to OMB and the Congress on the modifications to this system of records.

Dated: April 30, 2012.

Nancy C. Libin,
Chief Privacy and Civil Liberties Officer,
United States Department of Justice.

JUSTICE/DOJ-004

SYSTEM NAME:

Freedom of Information Act, Privacy Act, and Mandatory Declassification Review Records.

SECURITY CLASSIFICATION:

Unclassified and classified information.

SYSTEM LOCATION:

United States Department of Justice, 950 Pennsylvania Ave. NW., Washington, DC 20530-0001, and other Department of Justice offices throughout the country.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system encompasses all individuals who submit Freedom of Information Act (FOIA), Privacy Act, and Mandatory Declassification Review Requests and administrative appeals to the Department of Justice; individuals whose requests and/or records have been referred to the Department of Justice by other agencies; individuals who submit inquiries to the Department of Justice Office of Information Policy (OIP) regarding federal agency compliance with the FOIA; and, in some instances, attorneys representing

individuals submitting such requests and appeals, individuals who are the subjects of such requests and appeals, and/or the Department of Justice personnel assigned to handle such requests and appeals.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of records created or compiled in response to FOIA, Privacy Act, and Mandatory Declassification Review requests and administrative appeals, including: The original requests and administrative appeals; responses to such requests and administrative appeals; all related memoranda, correspondence, notes, and other related or supporting documentation; and, in some instances, copies of requested records and records under administrative appeal. This system also consists of records related to inquiries submitted to OIP regarding federal agency compliance with the FOIA, and all records related to the resolution of such inquiries.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system was established and is maintained pursuant to 5 U.S.C. 301 and 44 U.S.C. 3101 to implement the provisions of 5 U.S.C. 552 and 5 U.S.C. 552a, and the applicable executive order(s) governing classified national security information.

PURPOSE(S):

This system is maintained for the purpose of processing access requests and administrative appeals under the FOIA, access and amendment requests and administrative appeals under the Privacy Act, and requests and administrative appeals for mandatory declassification review under the applicable executive order(s) governing classified national security information; for the purpose of participating in litigation regarding agency action on such requests and appeals; for the purpose of responding to inquiries submitted to OIP regarding federal agency compliance with the FOIA; and for the purpose of assisting the Department of Justice in carrying out any other responsibilities under the FOIA, the Privacy Act, and applicable executive orders.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(a) To a federal, state, local, or foreign agency or entity for the purpose of consulting with that agency or entity to enable the Department of Justice to make a determination as to the propriety of access to or correction of information, or for the purpose of verifying the identity of an individual or the accuracy

of information submitted by an individual who has requested access to or amendment of information.

(b) To a federal agency or entity that furnished the record or information for the purpose of permitting that agency or entity to make a decision as to access to or correction of the record or information, or to a federal agency or entity for purposes of providing guidance or advice regarding the handling of particular requests.

(c) To a submitter or subject of a record or information in order to obtain assistance to the Department in making a determination as to access or amendment.

(d) To the National Archives and Records Administration, Information Security Oversight Office, Interagency Security Classification Appeals Panel, for the purpose of adjudicating an appeal from a Department of Justice denial of a request for mandatory declassification review of records, made under the applicable executive order(s) governing classification.

(e) To appropriate agencies, for the purpose of resolving an inquiry regarding federal agency compliance with the Freedom of Information Act.

(f) To the National Archives and Records Administration, Office of Government Information Services (OGIS), to the extent necessary to fulfill its responsibilities in 5 U.S.C. 552(h), to review administrative agency policies, procedures, and compliance with the Freedom of Information Act, and to facilitate OGIS' offering of mediation services to resolve disputes between persons making FOIA requests and administrative agencies.

(g) To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the federal government, when necessary to accomplish an agency function related to this system of records.

(h) To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

(i) In an appropriate proceeding before a court, grand jury, or administrative or adjudicative body, when the Department of Justice determines that the records are arguably relevant to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

(j) Where a record, either alone or in conjunction with other information,

indicates a violation or potential violation of law—criminal, civil, or regulatory in nature—the relevant records may be referred to the appropriate federal, state, local, territorial, tribal, or foreign law enforcement authority or other appropriate entity charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law.

(k) To appropriate officials and employees of a federal agency or entity when the information is relevant to a decision concerning the hiring, appointment, or retention of an employee; the assignment, detail, or deployment of an employee; the issuance, renewal, suspension, or revocation of a security clearance; the execution of a security or suitability investigation; the letting of a contract; or the issuance of a grant or benefit.

(l) To the National Archives and Records Administration for purposes of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

(m) To a former employee of the Department for purposes of: responding to an official inquiry by a federal, state, or local government entity or professional licensing authority, in accordance with applicable Department regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the Department requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

(n) To the news media and the public, including disclosures pursuant to 28 CFR 50.2, unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

(o) To federal, state, local, territorial, tribal, foreign, or international licensing agencies or associations which require information concerning the suitability or eligibility of an individual for a license or permit.

(p) To appropriate agencies, entities, and persons when (1) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems

or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

(q) To such recipients and under such circumstances and procedures as are mandated by federal statute or treaty.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are stored on paper and/or in electronic form. Records that contain national security information and are classified are stored in accordance with applicable executive orders, statutes, and agency implementing regulations.

RETRIEVABILITY:

Records are retrieved by the name of the requester or appellant; the number assigned to the request or appeal; and in some instances the name of the attorney representing the requester or appellant, the name of an individual who is the subject of such a request or appeal, and/or the name or other identifier of Department of Justice personnel assigned to handle such requests or appeals.

SAFEGUARDS:

Information in this system is safeguarded in accordance with applicable laws, rules, and policies, including the Department's automated systems security and access policies. Classified information is appropriately stored in safes and in accordance with other applicable requirements. In general, records and technical equipment are maintained in buildings with restricted access. The required use of password protection identification features and other system protection methods also restrict access. Access is limited to those officers and employees of the agency who have an official need for access in order to perform their duties.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the National Archives and Records Administration's General Records Schedule 14.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Staff, Office of Information Policy, United States Department of Justice, 950 Pennsylvania Avenue NW., Washington, DC 20530-0001.

NOTIFICATION PROCEDURE:

Same as Record Access Procedures.

RECORD ACCESS PROCEDURES:

Records concerning initial requests under the FOIA, the Privacy Act, and the applicable executive order(s) governing classified national security information are maintained by the individual Department of Justice component to which the initial request was addressed or directed. Inquiries regarding these records should be addressed to the particular Department of Justice component maintaining the records.

Records concerning administrative appeals for access requests under the FOIA; records concerning administrative appeals for access requests and accountings of disclosure requests under the Privacy Act; records concerning administrative appeals for access requests under the applicable executive order(s) governing classified national security information, with the exception of those made to the United States Parole Commission; and records concerning inquiries submitted to OIP regarding federal agency compliance with the FOIA, are maintained by OIP. Inquiries regarding these records should be addressed to the Office of Information Policy, United States Department of Justice, 950 Pennsylvania Avenue NW., Washington, DC 20530-0001. Inquiries regarding administrative appeals made to the United States Parole Commission should be addressed to the United States Parole Commission, United States Department of Justice, 950 Pennsylvania Avenue NW., Washington, DC 20530-0001.

Records concerning administrative appeals for amendment requests under the Privacy Act should be addressed to the Office of Privacy and Civil Liberties, United States Department of Justice, 1331 Pennsylvania Ave. NW., Suite 1000, National Place Building, Washington, DC 20350-0001.

All requests for access must be in writing and should be addressed to the System Manager named above. The envelope and letter should be clearly marked "Privacy Act Access Request." The request should include a general description of the records sought and must include the requester's full name, current address, and date and place of birth. The request must be signed and either notarized or submitted under penalty of perjury. Some information