

**U.S. Department of Commerce
U.S. Patent and Trademark Office**



**Privacy Threshold Analysis
for the
Patent Trial and Appeal Case Tracking System (P-TACTS)**

U.S. Department of Commerce Privacy Threshold Analysis

USPTO Patent Trial and Appeal Case Tracking System (P-TACTS)

Unique Project Identifier: PTO-010-00

Introduction: This Privacy Threshold Analysis (PTA) is a questionnaire to assist with determining if a Privacy Impact Assessment (PIA) is necessary for this IT system. This PTA is primarily based from the Office of Management and Budget (OMB) privacy guidance and the Department of Commerce (DOC) IT security/privacy policy. If questions arise or further guidance is needed in order to complete this PTA, please contact your Bureau Chief Privacy Officer (BCPO).

Description of the information system and its purpose: *Provide a general description (in a way that a non-technical person can understand) of the information system that addresses the following elements:*

The E-Government Act of 2002 defines “information system” by reference to the definition section of Title 44 of the United States Code. The following is a summary of the definition: “Information system” means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information. See: 44 U.S.C. § 3502(8).

The Patent Trial and Appeal Board reviews appeals by patent applicants who disagree with a decision by a Patent Examiner on their pending patent applications. We handle 6,000 to 8,000 a year. The Board typically also conducts less than one thousand post-grant Patent proceedings a year in which two parties contest whether the Patent Office should have issued the patent. Most post-grant patent proceedings are filed under the Leahy-Smith American Invents Act (AIA). By far most of the entities involved in post-grant proceedings are organizations. In rare post-grant proceedings, an individual is a petitioner or patent owner. As required by 37 C.F.R. § 42.8, petitioners and patent owners must file a notice identifying real party-in-interest, lead and back-up counsel (if party is represented by counsel), and applicable service information (electronic mail address, postal mailing address, a hand-delivery address if different than the postal address, a telephone number, and a facsimile number). Counsel information includes attorney name, email, USPTO Registration Number, phone number, and fax number.

Patent Trial and Appeal Case Tracking System (P-TACTS) supports the Board in managing these cases.

For the appeals the Board decides, the documents for the patent applications and appeals are stored in other patent systems, not in P-TACTS. P-TACTS stores status information about cases in a database, which is used by internal PTAB users and is not accessible to the public.

For post-grant patent proceedings, P-TACTS stores the case documents. Some of those documents are filed by the parties to the proceedings, so there is an external portal for doing so and viewing case documents. To file documents, external users need to establish a user account. A public user is required to provide first name, last name, a phone number, and an email address. Board decision public documents are available for post-grant patent proceedings and appeals from the USPTO's Big Data Repository/API system, which is not part of P-TACTS and is not managed by the Board. Public users, however, also can use P-TACTS to search proceedings by

the review number assigned to each post-grant patent proceedings, party name, etc. A public user is required to provide first name, last name, a phone number, and an email address.

a) Whether it is a general support system, major application, or other type of system

P-TACTS is a Major Application.

b) System location

600 Dulany Street, Alexandria, VA 22314

c) Whether it is a standalone system or interconnects with other systems (identifying and describing any other systems to which it interconnects)

P-TACTS interconnects with other systems including the following Major Applications:

1. **Enterprise Software Services (ESS)** is a collection of applications that centralizes common business applications and tools for modeling how the agency functions, assists with unique application development, improves business logic and support, and improves communications and collaboration within the agency.
2. **Patent Capture and Application Processing System – Internal Support (PCAPS-IP)** is a master system that is comprised of multiple Automated Information Systems that perform specific functions, which includes patent submissions, patent categorization, metadata capture, and patent examiner assignment of patent applications. PCAPS-IP users include both internal USPTO personnel as well as the public.
3. **Patent Capture and Application Processing System – Examination Support (PCAPS-ES)** is a master system that enables patent examiners and public users to search and retrieve application data, images, and patent applicants in order to identify individuals and organizations with intellectual property, pre-grant, and published applications.
4. **Patents End-to-End (PE2E)** is a master system portfolio consisting of next generation Patent Automated Information Systems (AISs) with a goal of creating a single web-based examination tool, which provides users with unified and robust interface that does not require launching of separate applications in separate windows.
5. **Intellectual Property Leadership Management Support Systems (IPLMSS)** is a master AIS which facilitates grouping and managing of 10 general support and separately bounded AISs that collectively support the USPTO Director, Deputy Director, Office of the General Counsel (OGC), including OGC's components the Office of General Law (OGL), Office of the Solicitor, and Office of Enrollment and Discipline (OED),

Trademark Trial and Appeal Board (TTAB), Patent Trial and Appeal Board (PTAB), Office of Patent Training (OPT), and Office of Policy and International Affairs (OPIA).

6. **Fee Processing Next Generation (FPNG)** is a master system that provides payment method to the public and internal facing functionality that enables USPTO employees to support customers.
7. **Agency Administrative Support System (AASS)** is a master system that supports multiple enterprise administrative functions. AASS enables the Under Secretary of Commerce for Intellectual Property and Director of the USPTO to receive and respond to a wide range of official correspondence by electronically capturing, routing and tracking both incoming and responding documents. As an automated document management system, AASS supports the Office of Policy and International Affairs (OPIA) with the capabilities of capturing, indexing, searching and retrieving documents. AASS provides the Chief Economist's office with a solution to store data and perform statistical analysis in a secured environment.
8. **Information Delivery Product (IDP)** is a master system that provides access to integrate USPTO data through various tools in support of not only reporting and visualizing but also analytics used in decision-making across USPTO.

d) The purpose that the system is designed to serve

P-TACTS is used for electronically filing documents in connection with Inter Parties Review (IPR), Covered Business Method Patents (CBM), Post Grant Review (PGR), and Derivation Proceedings (DER) established under the Leahy-Smith America Invents Act (AIA). It is also used for the administrative processing of pre-grant appeals of certain types of adverse decisions by patent examiners.

e) The way the system operates to achieve the purpose

P-TACTS is a Major Application for supporting USPTO's administrative law body Patent Trial and Appeal Board (PTAB) for electronically filing documents in connection with Inter Partes Review (IPR), Covered Business Method Patents (CBM), Post Grant Review (PGR), and Derivation Proceedings (DER), established under the Leahy-Smith America Invents Act (AIA). It is also used for the administrative processing of pre-Grant Appeals of certain types of adverse decisions by patent examiners. Appeals documents are stored in P-ELP (Patents content management system) and the statuses are recorded for the cases in the Appeals database. The addresses of the Appellants are stored in PALM and the Appeals database does not store the address. P-TACTS also updates PALM on transaction codes. The Appeals database records only the transactions pertaining to the Appeal processing by the P-TACTS. This database is only used for Appeal processing by internal P-TACTS users; it is not used or accessible to the public. In addition, P-TACTS provides case management, case tracking and notification, hearing

schedule, data analytics and reporting capabilities, data search and search results, data integration, data synchronization, and data store, document submission and management, workload balance and management and electronic records management.

f) A general description of the type of information collected, maintained, used, or disseminated by the system

PII such as First Name, Last Name, E-mail Address, and Telephone Number of Public Users who file petitions are collected, maintained, used and disseminate by the system.

g) Identify individuals who have access to information on the system

Authorized administrators, judges, supervisory paralegals, paralegals, patent attorneys, and the hearings team, public users that consist of organizations with appeals and other members of the public who have interest in the grant cases, these users may or may not have registered accounts to review the inter partes review cases and some public users are parties to a proceeding.

h) How information in the system is retrieved by the user

As internal users, P-TACTS administrators have access to the new queue of petitions for assignment. They are able to see certain attributes of the available judges so they can properly and accurately assign petitions to the appropriate judge. There are two types of hearing teams, one team has access to papers related to appeals and use a case number to search the system, the other team can search AIA cases by entering a case number to search the system similar to how the judges will access the system.

As internal users, supervisory paralegals and some paralegals have access to the Import Manager screens to automatically import appeal cases into P-TACTS. They also have access to the Post Decisional Case Management screen to view recently decided cases.

As internal users, Judges have access to all the available petitions that they are assigned to or are given permission to access. In addition, judges and patent attorneys, have case dockets that they can view with all the cases that are assigned (paralegals do not). All internal users have assignment dockets for tasks they are assigned.

Public (External) users can review/search the P-TACTS AIA documents/filings/proceedings without logging into the system. Public users can search by ‘AIA Review Number, Patent Number, Application Number, Party Name, AIA Review/Case Type, and Tech Center.’ Public users have read only access to the documents. Public users create their own account from the P-TACTS website by clicking on ‘Create an Account’ for the following actions:

“Person or group who challenges the validity of the AIA proceedings; Person or group who has or claims to have the ownership of the AIA proceeding; Patent application or Owner who is appealing a final office decision; Applicants or Patent Owners involved in challenge over inventorship; Persons or groups other than the Patent Owner/Appellant or the public, who actively participates in the validity of challenges of proceeding.”

A public user is required to provide First name, Last Name, Phone Number, and Email Address. Additionally, the public user is also required to create a password in the 'Register a New Account Form'. After the user clicks on 'Register', an email is sent out by the system to the user with instructions and a link to validate/activate the account. When the user clicks on the provided link, a screen with validation code is displayed, user clicks on submit, account is activated and a message 'You've successfully registered for PTAB E2E!' is displayed.

i) How information is transmitted to and from the system

P-TACTS implements cryptographic mechanisms to prevent unauthorized disclosure of information and detect changes to information during transmission. For external facing systems HTTPS and TLS 1.2 or higher, AES with 256-bit encryption, RSA with 2048-bit exchange as key exchange mechanism are used. However, for SSL usage, all activities are internal to USPTO and per OMB M-15-13, internal use of HTTPS is encouraged but not required.

Questionnaire:

1. Status of the Information System

1a. What is the status of this information system?

- ☐ This is a new information system. *Continue to answer questions and complete certification.*
- ☐ This is an existing information system with changes that create new privacy risks. *Complete chart below, continue to answer questions, and complete certification.*

Changes That Create New Privacy Risks (CTCNPR)					
a. Conversions	<input type="checkbox"/>	d. Significant Merging	<input type="checkbox"/>	g. New Interagency Uses	<input type="checkbox"/>
b. Anonymous to Non-Anonymous	<input type="checkbox"/>	e. New Public Access	<input type="checkbox"/>	h. Internal Flow or Collection	<input type="checkbox"/>
c. Significant System Management Changes	<input type="checkbox"/>	f. Commercial Sources	<input type="checkbox"/>	i. Alteration in Character of Data	<input type="checkbox"/>
j. Other changes that create new privacy risks (specify):					

- ☐ This is an existing information system in which changes do not create new privacy risks, and there is not a SAOP approved Privacy Impact Assessment. *Continue to answer questions and complete certification.*
- ☒ This is an existing information system in which changes do not create new privacy risks, and there is a SAOP approved Privacy Impact Assessment (version 01-2015 or 01-2017). *Continue to answer questions and complete certification.*
- ☐ This is an existing information system in which changes do not create new privacy risks, and there is a SAOP approved Privacy Impact Assessment (version 01-2019 or later). *Skip questions and complete certification.*

1b. Has an IT Compliance in Acquisitions Checklist been completed with the appropriate signatures?

- ☐ Yes. This is a new information system.
- ☐ Yes. This is an existing information system for which an amended contract is needed.
- ☐ No. The IT Compliance in Acquisitions Checklist is not required for the acquisition of equipment for specialized Research and Development or scientific purposes that are not a National Security System.
- ☒ No. This is not a new information system.

2. Is the IT system or its information used to support any activity which may raise privacy concerns?

NIST Special Publication 800-53 Revision 4, Appendix J, states "Organizations may also engage in activities that do not involve the collection and use of PII, but may nevertheless raise privacy concerns and associated risk. The privacy controls are equally applicable to those activities and can be used to analyze the privacy risk and mitigate such risk when necessary." Examples include, but are not limited to, audio recordings, video surveillance, building entry readers, and electronic purchase transactions.

- ☐ Yes. *(Check all that apply.)*

Activities			
Audio recordings	<input type="checkbox"/>	Building entry readers	<input type="checkbox"/>
Video surveillance	<input type="checkbox"/>	Electronic purchase transactions	<input type="checkbox"/>
Other(specify):			

- ☒ No.

3. Does the IT system collect, maintain, or disseminate business identifiable information (BII)?

As per DOC Privacy Policy: "For the purpose of this policy, business identifiable information consists of (a) information that is defined in the Freedom of Information Act (FOIA) as "trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential." (5 U.S.C.552(b)(4)). This information is exempt from automatic release under the (b)(4) FOIA exemption. "Commercial" is not confined to records that reveal basic commercial operations" but includes any records [or information] in which the submitter has a commercial interest" and can include information submitted by a nonprofit entity, or (b) commercial or other information that, although it may not be exempt from release under FOIA, is exempt from disclosure by law (e.g., 13 U.S.C.)."

- ☒ Yes, the IT system collects, maintains, or disseminates BII.
- ☐ No, this IT system does not collect any BII.

4. Personally Identifiable Information (PII)

4a. Does the IT system collect, maintain, or disseminate PII?

As per OMB 17-12: “The term PII refers to information that can be used to distinguish or trace an individual’s identity either alone or when combined with other information that is linked or linkable to a specific individual.”

☒ Yes, the IT system collects, maintains, or disseminates PII about: *(Check all that apply.)*

- ☒ DOC employees
- ☒ Contractors working on behalf of DOC
- ☐ Other Federal Government personnel
- ☒ Members of the public

☐ No, this IT system does not collect any PII.

If the answer is “yes” to question 4a, please respond to the following questions.

4b. Does the IT system collect, maintain, or disseminate Social Security numbers (SSNs), including truncated form?

☐ Yes, the IT system collects, maintains, or disseminates SSNs, including truncated form.

Provide an explanation for the business need requiring the collection of SSNs, including truncated form.
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Provide the legal authority which permits the collection of SSNs, including truncated form.

☒ No, the IT system does not collect, maintain, or disseminate SSNs, including truncated form.

4c. Does the IT system collect, maintain, or disseminate PII other than user ID?

☒ Yes, the IT system collects, maintains, or disseminates PII other than user ID.

☐ No, the user ID is the only PII collected, maintained, or disseminated by the IT system.

- 4d. Will the purpose for which the PII is collected, stored, used, processed, disclosed, or disseminated (context of use) cause the assignment of a higher PII confidentiality impact level?

Examples of context of use include, but are not limited to, law enforcement investigations, administration of benefits, contagious disease treatments, etc.

- ☐ Yes, the context of use will cause the assignment of a higher PII confidentiality impact level.
- ☒ No, the context of use will not cause the assignment of a higher PII confidentiality impact level.

If any of the answers to questions 2, 3, 4b, 4c, and/or 4d are “Yes,” a Privacy Impact Assessment (PIA) must be completed for the IT system. This PTA and the SAOP approved PIA must be a part of the IT system’s Assessment and Authorization Package.

CERTIFICATION

☒ I certify the criteria implied by one or more of the questions above **apply** to the **Patent Trial and Appeal Case Tracking System (P-TACTS)** and as a consequence of this applicability, I will perform and document a PIA for this IT system.

☐ I certify the criteria implied by the questions above **do not apply** to the **Patent Trial and Appeal Case Tracking System (P-TACTS)** and as a consequence of this non-applicability, a PIA for this IT system is not necessary.

<p>System Owner Name: Sonya Arora Office: Patent Trial and Appeal Board (U/PTAB) Phone: (571) 272-5926 Email: Sonya.Arora@uspto.gov</p> <p style="text-align: right; font-size: small;">Digitally signed by Sonya Arora Date: 2021.10.05 10:29:47 -04'00'</p> <p>Signature: <u>Sonya Arora</u></p> <p>Date signed: _____</p>	<p>Chief Information Security Officer Name: Don Watson Office: Office of the Chief Information Officer (OCIO) Phone: (571) 272-8130 Email: Don.Watson@uspto.gov</p> <p style="text-align: right; font-size: small;">Digitally signed by DON R Watson Date: 2021.10.05 11:46:46 -04'00'</p> <p>Signature: <u>DON R Watson</u></p> <p>Date signed: _____</p>
<p>Privacy Act Officer Name: John Heaton Office: Office of General Law (O/GL) Phone: (571) 270-7420 Email: Ricou.Heaton@uspto.gov</p> <p style="text-align: right; font-size: small;">Users, Heaton, John Digitally signed by Users, Heaton, John (Ricou) Date: 2021.10.04 17:13:41 -04'00'</p> <p>Signature: <u>Users, Heaton, John (Ricou)</u></p> <p>Date signed: _____</p>	<p>Bureau Chief Privacy Officer and Co-Authorizing Official Name: Henry J. Holcombe Office: Office of the Chief Information Officer (OCIO) Phone: (571) 272-9400 Email: Jamie.Holcombe@uspto.gov</p> <p style="text-align: right; font-size: small;">Users, Holcombe, Henry Digitally signed by Users, Holcombe, Henry Date: 2021.10.06 08:41:42 -04'00'</p> <p>Signature: <u>Users, Holcombe, Henry</u></p> <p>Date signed: _____</p>
<p>Co-Authorizing Official Name: Scott Boalick Office: Patent and Appeal Trial Board (U/PTAB) Phone: (571) 272-8138 Email: Scott.Boalick@uspto.gov</p> <p style="text-align: right; font-size: small;">Users, Boalick, Scott Digitally signed by Users, Boalick, Scott Date: 2021.11.10 09:53:41 -05'00'</p> <p>Signature: <u>Users, Boalick, Scott</u></p> <p>Date signed: _____</p>	