

**DEPARTMENT OF COMMERCE****National Telecommunications and Information Administration****Multistakeholder Process To Develop Consumer Data Privacy Code of Conduct Concerning Facial Recognition Technology**

**AGENCY:** National Telecommunications and Information Administration, U.S. Department of Commerce.

**ACTION:** Notice of Open Meeting.

**SUMMARY:** The National Telecommunications and Information Administration (NTIA) will convene a meeting of a privacy multistakeholder process concerning the commercial use of facial recognition technology on July 24, 2014.

**DATES:** The meeting will be held on July 24, 2014 from 1:00 p.m. to 5:00 p.m., Eastern Time. See Supplementary Information for details.

**ADDRESSES:** The meeting will be held in the Boardroom at the American Institute of Architects, 1735 New York Avenue NW., Washington, DC 20006.

**FOR FURTHER INFORMATION CONTACT:** John Verdi, National Telecommunications and Information Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Room 4725, Washington, DC 20230; telephone (202) 482-8238; email [jverdi@ntia.doc.gov](mailto:jverdi@ntia.doc.gov). Please direct media inquiries to NTIA's Office of Public Affairs, (202) 482-7002; email [press@ntia.doc.gov](mailto:press@ntia.doc.gov).

**SUPPLEMENTARY INFORMATION:**

*Background:* On February 23, 2012, the White House released *Consumer Data Privacy in a Networked World: A Framework for Protecting Privacy and Promoting Innovation in the Global Digital Economy* (the "Privacy Blueprint").<sup>1</sup> The Privacy Blueprint directs NTIA to convene multistakeholder processes to develop legally enforceable codes of conduct that specify how the Consumer Privacy Bill of Rights applies in specific business contexts.<sup>2</sup> On December 3, 2013, NTIA announced that it would convene a multistakeholder process with the goal of developing a code of conduct to protect consumers' privacy and promote trust regarding facial recognition technology in the commercial context.<sup>3</sup> On February 6,

2014, NTIA convened the first meeting of the multistakeholder process, followed by additional meetings through June 2014.

*Matters to Be Considered:* The July 24, 2014 meeting is a continuation of a series of NTIA-convened multistakeholder discussions concerning facial recognition technology. Stakeholders will engage in an open, transparent, consensus-driven process to develop a code of conduct regarding facial recognition technology. The July 24, 2014 meeting will build on stakeholders' previous work. More information about stakeholders' work is available at: <http://www.ntia.doc.gov/other-publication/2014/privacy-multistakeholder-process-facial-recognition-technology>.

*Time and Date:* NTIA will convene a meeting of the privacy multistakeholder process regarding facial recognition technology on July 24, 2014, from 1:00 p.m. to 5:00 p.m., Eastern Time. The meeting date and time are subject to change. The meeting is subject to cancellation if stakeholders complete their work developing a code of conduct. Please refer to NTIA's Web site, <http://www.ntia.doc.gov/other-publication/2014/privacy-multistakeholder-process-facial-recognition-technology>, for the most current information.

*Place:* The meeting will be held in the Boardroom at the American Institute of Architects, 1735 New York Avenue NW., Washington, DC 20006. The location of the meeting is subject to change. Please refer to NTIA's Web site, <http://www.ntia.doc.gov/other-publication/2014/privacy-multistakeholder-process-facial-recognition-technology>, for the most current information.

*Other Information:* The meeting is open to the public and the press. The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to John Verdi at (202) 482-8238 or [jverdi@ntia.doc.gov](mailto:jverdi@ntia.doc.gov) at least seven (7) business days prior to the meeting. The meeting will also be webcast. Requests for real-time captioning of the webcast or other auxiliary aids should be directed to John Verdi at (202) 482-8238 or [jverdi@ntia.doc.gov](mailto:jverdi@ntia.doc.gov) at least seven (7) business days prior to the meeting. There will be an opportunity for stakeholders viewing the webcast to participate remotely in the meeting through a moderated conference bridge, including polling functionality. Access details for the meeting are subject to change. Please refer to NTIA's Web site, <http://www.ntia.doc.gov/other-publication/>

*2013/privacy-multistakeholder-process-facial-recognition-technology*, for the most current information.

Dated: June 24, 2014.

**Kathy Smith,**

*Chief Counsel, National Telecommunications and Information Administration.*

[FR Doc. 2014-15094 Filed 6-26-14; 8:45 am]

**BILLING CODE 3510-60-P**

**DEPARTMENT OF COMMERCE****Patent and Trademark Office**

[Docket No. PTO-P-2014-0031]

**Request for Comments on Trial Proceedings Under the America Invents Act Before the Patent Trial and Appeal Board**

**AGENCY:** United States Patent and Trademark Office, Commerce.

**ACTION:** Request for comments.

**SUMMARY:** The Leahy-Smith America Invents Act (AIA) provided for new administrative trial proceedings before the Patent Trial and Appeal Board (Board). The United States Patent and Trademark Office (USPTO) issued a number of final rules and a trial practice guide in August and September of 2012 to implement the new administrative trial provisions of the AIA. The USPTO now is seeking public comment on all aspects of the new administrative trial proceedings, including the administrative trial proceeding rules and trial practice guide.

**DATES:** *Comment Deadline Date:* Written comments must be received on or before September 16, 2014.

**ADDRESSES:** Comments must be sent by electronic mail message over the Internet addressed to: [TrialsRFC2014@uspto.gov](mailto:TrialsRFC2014@uspto.gov).

Electronic comments submitted in plain text are preferred, but also may be submitted in ADOBE® portable document format or MICROSOFT WORD® format. Comments not submitted electronically should be submitted on paper in a format that facilitates convenient digital scanning into ADOBE® portable document format. The comments will be available for viewing via the USPTO's Internet Web site (<http://www.uspto.gov>). Because comments will be made available for public inspection, information that the submitter does not desire to make public, such as an address or phone number, should not be included in the comments.

**FOR FURTHER INFORMATION CONTACT:**

Scott R. Boalick, Vice Chief Administrative Patent Judge (Acting),

<sup>1</sup> The Privacy Blueprint is available at <http://www.whitehouse.gov/sites/default/files/privacy-final.pdf>.

<sup>2</sup> *Id.*

<sup>3</sup> NTIA, *Facial Recognition Technology*, <http://www.ntia.doc.gov/other-publication/2013/privacy-multistakeholder-process-facial-recognition-technology>.

Patent Trial and Appeal Board, at 571–272–8138.

**SUPPLEMENTARY INFORMATION:** Sections 3, 6, and 18 of the AIA provided for the following new Board administrative trial proceedings: (1) *Inter partes* review; (2) post-grant review; (3) covered business method patents review; and (4) derivation proceedings. Public Law 112–29, 125 Stat. 284 (2011). The USPTO issued a number of final rules and a trial practice guide in August and September of 2012 to implement the new administrative trial provisions of the AIA. See *Rules of Practice for Trials Before the Patent Trial and Appeal Board and Judicial Review of Patent Trial and Appeal Board Decisions*, 77 FR 48612 (Aug. 14, 2012) (final rule); *Changes to Implement Inter Partes Review Proceedings, Post-Grant Review Proceedings, and Transitional Program for Covered Business Method Patents*, 77 FR 48680 (Aug. 14, 2012) (final rule); *Transitional Program for Covered Business Method Patents—Definitions of Covered Business Method Patent and Technological Invention*, 77 FR 48734 (Aug. 14, 2012) (final rule); *Changes to Implement Derivation Proceedings*, 77 FR 56068 (Sept. 11, 2012) (final rule); and *Office Patent Trial Practice Guide*, 77 FR 48756 (Aug. 14, 2012).

During the rulemaking to implement the administrative trial provisions of the AIA, the USPTO held AIA roadshows in eighteen cities to engage with the public. In issuing the administrative trial proceeding rules and trial practice guide, the USPTO committed to revisiting the rules and practice guide once the Board and public had operated under the rules and practice guide for some period and had gained experience with the new administrative trial proceedings. The Board and public now have eighteen months of experience with the new administrative trial proceedings, and, therefore, the USPTO has determined that it is time to seek public input on the AIA administrative trial proceeding rules and trial practice guide in light of this experience.

The USPTO began the process of revisiting the AIA administrative trial proceeding rules and trial practice guide by engaging in a nation-wide listening tour. The USPTO conducted a series of eight roundtables in April and May of 2014, held in Alexandria, New York City, Chicago, Detroit, Silicon Valley, Seattle, Dallas, and Denver, to share information concerning the AIA administrative trial proceedings with the public and obtain public feedback on these proceedings. At these roundtables, the Board provided the

public with statistics concerning the administrative trial proceedings, as well as lessons learned for filing effective petitions and preliminary patent owner statements, engaging in successful discovery and amendment practice, and effectively presenting a case at oral hearing. The Board also received feedback from the public on the AIA administrative trial proceeding rules and trial practice guide, as well as on experiences in general with the AIA administrative trial proceedings. More information about the roundtables is available at [http://www.uspto.gov/ip/boards/bpai/ptab\\_aia\\_trial\\_roundtables\\_2014.jsp](http://www.uspto.gov/ip/boards/bpai/ptab_aia_trial_roundtables_2014.jsp).

More specifically, during the AIA roundtables, the USPTO received some comments of a non-rule specific nature. The Board does not anticipate these comments necessitating any changes to the current AIA trial proceeding rules, as discussed below.

At least one participant at the AIA roundtables commented that the Board's Scheduling Order should require parties to an AIA trial to engage in a settlement discussion. The current AIA trial proceeding rules do not dictate the contents of scheduling orders in AIA trials. Rather, Appendix A of the Office Patent Trial Practice Guide (“trial practice guide”) provides sample scheduling orders. Further, the trial practice guide states, “There are strong public policy reasons to favor settlement between the parties to a proceeding. The Board will be available to facilitate settlement discussions, and where appropriate, may require a settlement discussion as part of the proceeding.” Trial practice guide, section N. Generally, the Board strongly encourages the parties to engage in settlement discussions. Should the Board move forward with changes to the AIA trial proceeding rules, the Board will consider whether to amend Appendix A of the trial practice guide to provide an example order in which the parties are required to engage in a settlement discussion by a specified date. The exact content of any scheduling order will remain within the discretion of the judge(s) issuing the order.

At least one participant at the AIA roundtables commented that a notice of appeal from a Board decision rendered in an AIA trial should be required to be served on the Solicitor. The USPTO has experienced problems in the past with parties who seek an appeal from a Board decision in an AIA trial failing to comply with the notice and service requirements of 37 CFR 90.2. Section 90.2 requires, in pertinent part, “In all appeals, the notice of appeal required by

35 U.S.C. 142 must be filed with the Director of the United States Patent and Trademark Office as provided in § 104.2 of this title,” and that the notice must include a description of the issues expected to be pursued on appeal. Section 104.2 provides that such notice should be sent to the Office of the General Counsel, of which the Solicitor's Office is a part. Thus, the current Office rules governing service of a notice of appeal already provide for service on the Solicitor. Importantly, notice to the Office of the General Counsel of an appeal taken from a Board decision provides the Solicitor with an opportunity to intervene in the appeal on behalf of the USPTO. Failure to notify the USPTO properly of the filing of a notice of appeal may result in the Solicitor belatedly seeking to intervene in the appeal once the USPTO becomes aware of the appeal through other means. Due to past failures of parties to comply with this rule, the Board typically adds a reminder at the end of final, appealable Board decisions that the parties must comply with the notice and service requirements of § 90.2, should they seek judicial review of the decision.

At least one participant at the AIA roundtables commented that the Board should not continue a trial if the parties settle the matter because continuation of the trial is unfair to the parties. The statute provides for settlement of *inter partes* review, post-grant review, and covered business method patents review proceedings. 35 U.S.C. 317, 327, and section 18(a)(1) of the AIA. The statute also provides that after termination of such a proceeding with respect to a petitioner, if no petitioner remains in the proceeding, “the Office may terminate the review or proceed to a final written decision.” In keeping with the statute, 37 CFR 42.74(a) provides that, while the parties may agree to settle any issue in a proceeding, the Board is not a party to the settlement and independently may determine any question of jurisdiction, patentability, or Office practice. In issuing this final rule, the USPTO responded to comments on this matter explaining that the statutory language for *inter partes* and post-grant reviews confers discretion to the Board to terminate or proceed to a final written decision based on the facts in a particular review. 77 FR at 48469. The determination by the Board to proceed to a final written decision is made taking into account public policy considerations. In particular, if the parties settle the matter late in the proceeding after the Board has reached a determination of unpatentability as to

one or more claims of the patent under review, the Board, in its discretion, may determine that proceeding to a final written decision is in the best interests of the public. Parties seeking to avoid having a proceeding reach final written decision after settlement are encouraged to settle the issues in the proceeding well in advance of the oral hearing.

At least one participant at the AIA roundtables asked for the USPTO's interpretation of the estoppel effect of a Board decision on civil actions and other proceedings. *See* 35 U.S.C. 315(e)(2) and 325(e)(2). The scope or interpretation of the estoppel provisions of the statute as they pertain to civil actions and other proceedings outside the Office is not a matter for comment by the USPTO. Rather, the federal courts are best positioned to interpret the statutory estoppel language as it applies to civil actions and other proceedings outside the USPTO in the context of the particular facts in a given case.

At least one participant at the AIA roundtables commented that the Board should issue more precedential and informative AIA trial decisions to provide guidance for practitioners. The Board has posted representative decisions from AIA trials on its Web page. The Board is in the process of vetting additional AIA trial decisions for potential designation as precedential and informative. Additional precedential and informative AIA trial decisions will be posted to the Board's Web page as these designations are made. The Board's Standard Operating Procedure 2, which concerns publication of opinions and designation of opinions as precedential, provides that an appellant, patentee, petitioner, or a third party member of the public may, within 60 days of issuance of an opinion, request in writing that an opinion be made precedential by forwarding the request, along with accompanying reasons, to the Chief Judge. SOP2, § II.C. The Board encourages members of the public to notify the Chief Judge if members of the public deem an opinion rendered by the Board in an AIA trial suitable for designation as precedential.

At least one participant at the AIA roundtables commented that the Board should make audio files or transcripts of oral arguments in AIA trials available to the public. The Board currently employs court reporters at all AIA trial hearings to create a written transcript of each hearing. These transcripts are made available to the public through the Patent Review Processing System (PRPS), which is accessible via the Board's Web page.

At least one participant at the AIA roundtables commented that the Board should enhance PRPS to permit non-parties to register to receive notices of decisions in a case. Another participant at the AIA roundtables commented that the Board should enhance PRPS to provide for better searchability of AIA trial decisions. The Board is currently in the process of developing a new PTAB End-to-End information technology system ("PTAB E2E") that, once fully deployed, will provide additional features to the public portion of the system. The Board will bear in mind the input received at the AIA roundtables in developing requirements for PTAB E2E. In the meantime, interim solutions are being explored to make AIA trial decisions more easily accessible and searchable on the PTAB Web page.

At least one participant at the AIA roundtables commented that the Board should offer more statistics about AIA trial proceedings, including showing the outcome of final written decisions by the technology center that issued the patent and correlating the number of preliminary patent owner responses with decisions to institute trial. PRPS has certain limitations in its structure that do not allow for easy extraction of data in an automated fashion. These limitations make it particularly difficult and time consuming for the Board to present statistics on AIA trials. Currently, the Board calculates AIA trial statistics through manual data collection means. With the number of AIA filings and the number of active AIA trials on the rise, the Board is finding the collection of such data to be even more difficult and time consuming. As requirements are developed for PTAB E2E, data extraction and analysis will be kept in mind so that the next generation PTAB IT system will allow provision of more statistical data about AIA trials. In the meantime, the Board is working to enhance AIA trial statistics published regularly on the Board's Web page.

As discussed previously, the USPTO is seeking public comment on all aspects of the new administrative trial proceedings, including the administrative trial proceeding rules and trial practice guide. The following are issues on which the USPTO is especially interested in receiving public comment, as these issues were most frequently raised during the roundtables:

#### Claim Construction Standard

1. Under what circumstances, if any, should the Board decline to construe a claim in an unexpired patent in accordance with its broadest reasonable

construction in light of the specification of the patent in which it appears?

#### Motion To Amend

2. What modifications, if any, should be made to the Board's practice regarding motions to amend?

#### Patent Owner Preliminary Response

3. Should new testimonial evidence be permitted in a Patent Owner Preliminary Response? If new testimonial evidence is permitted, how can the Board meet the statutory deadline to determine whether to institute a proceeding while ensuring fair treatment of all parties?

#### Obviousness

4. Under what circumstances should the Board permit discovery of evidence of non-obviousness held by the petitioner, for example, evidence of commercial success for a product of the petitioner? What limits should be placed on such discovery to ensure that the trial is completed by the statutory deadline?

#### Real Party in Interest

5. Should a patent owner be able to raise a challenge regarding a real party in interest at any time during a trial?

#### Additional Discovery

6. Are the factors enumerated in the Board's decision in *Garmin v. Cuozzo*, IPR2012-00001, appropriate to consider in deciding whether to grant a request for additional discovery? What additional factors, if any, should be considered?

#### Multiple Proceedings

7. How should multiple proceedings before the USPTO involving the same patent be coordinated? Multiple proceedings before the USPTO include, for example: (i) Two or more separate AIA trials; (ii) an AIA trial and a reexamination proceeding; or (iii) an AIA trial and a reissue proceeding.

8. What factors should be considered in deciding whether to stay, transfer, consolidate, or terminate an additional proceeding involving the same patent after a petition for AIA trial has been filed?

9. Under what circumstances, if any, should a copending reexamination proceeding or reissue proceeding be stayed in favor of an AIA trial? If a stay is entered, under what circumstances should the stay be lifted?

10. Under what circumstances, if any, should an AIA trial be stayed in favor of a copending reexamination proceeding or reissue proceeding? If a stay is entered, under what circumstances should the stay be lifted?

11. Under what circumstances, if any, should a copending reexamination proceeding or reissue proceeding be consolidated with an AIA trial?

12. How should consolidated proceedings be handled before the USPTO? Consolidated proceedings include, for example: (i) Consolidated AIA trials; (ii) an AIA trial consolidated with a reexamination proceeding; or (iii) an AIA trial consolidated with a reissue proceeding.

13. Under what circumstances, if any, should a petition for an AIA trial be rejected because the same or substantially the same prior art or arguments previously were presented to the USPTO in a different petition for an AIA trial, in a reexamination proceeding or in a reissue proceeding?

#### Extension of 1 Year Period To Issue Final Determination

14. What circumstances should constitute a finding of good cause to extend the 1-year period for the Board to issue a final determination in an AIA trial?

#### Oral Hearing

15. Under what circumstances, if any, should live testimony be permitted at the oral hearing?

16. What changes, if any, should be made to the format of the oral hearing?

#### General

17. What other changes can and should be made in AIA trial proceedings? For example, should changes be made to the Board's approach to instituting petitions, page limits, or request for rehearing practice?

Dated: June 23, 2014.

**Michelle K. Lee,**

*Deputy Under Secretary of Commerce for Intellectual Property and, Deputy Director of the United States Patent and Trademark Office.*

[FR Doc. 2014-15171 Filed 6-26-14; 8:45 am]

BILLING CODE 3510-16-P

### COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

#### Procurement List; Proposed Additions and Deletions

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Proposed Addition to and Deletions From Procurement List.

**SUMMARY:** The Committee is proposing to add a service to the Procurement List that will be furnished by nonprofit

agency employing persons who are blind or have other severe disabilities and to delete products previously furnished by such agencies.

**DATES:** *Comments Must Be Received on or Before:* 7/28/2014.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 10800, Arlington, Virginia 22202-4149.

**FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT:** Barry S. Lineback, Telephone: (703) 603-7740, Fax: (703) 603-0655, or email [CMTEFedReg@AbilityOne.gov](mailto:CMTEFedReg@AbilityOne.gov).

**SUPPLEMENTARY INFORMATION:** This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51-2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

#### Addition

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the service listed below from nonprofit agency employing persons who are blind or have other severe disabilities.

The following service is proposed for addition to Procurement List for production by the nonprofit agency listed:

#### Service

**Service Type/Location:** Contact Center, Centers for Medicare and Medicaid Services, 7500 Security Boulevard, Baltimore, MD.

**NPA:** InspiriTec, Inc., Philadelphia, PA.

**Contracting Activity:** DEPT OF HHS/CMS, Centers for Medicare and Medicaid Services, Baltimore, MD.

#### Deletions

The following products are proposed for deletion from the Procurement List:

#### Products

**NSN:** 8115-00-511-5750—Box, Set-Up, Mailing Dental.

**NPA:** Blind Industries & Services of Maryland, Baltimore, MD.

**Contracting Activity:** DLA TROOP SUPPORT, PHILADELPHIA, PA.

**NSN:** 7530-01-515-7900—Paper, Printer, Ink Jet, Photo Quality, Double Side, Matte, Letter, 99 Bright White.

**NSN:** 7530-01-515-7471—Paper, Printer, Ink Jet, Photo Quality, 24 lb., Letter, 94 Bright White.

**NPA:** Wiscraft, Inc., Milwaukee, WI.

**Contracting Activity:** GSA/FSS OFC SUP CTR—PAPER PRODUCTS, NEW YORK,

NY.

**Patricia Briscoe,**

*Deputy Director, Business Operations (Pricing and Information Management).*

[FR Doc. 2014-15048 Filed 6-26-14; 8:45 am]

BILLING CODE 6353-01-P

### COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

#### Procurement List; Additions And Deletion

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Additions to and Deletion from the Procurement List.

**SUMMARY:** This action adds products to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes a service from the Procurement List previously furnished by such agencies.

**DATES:** *Effective Date:* 7/28/2014.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 10800, Arlington, Virginia 22202-4149.

**FOR FURTHER INFORMATION CONTACT:** Barry S. Lineback, Telephone: (703) 603-7740, Fax: (703) 603-0655, or email [CMTEFedReg@AbilityOne.gov](mailto:CMTEFedReg@AbilityOne.gov).

#### SUPPLEMENTARY INFORMATION:

#### Additions

On 5/2/2014 (78 FR No. 85) and 5/23/2014 (79 FR No. 100), the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and impact of the additions on the current or most recent contractors, the Committee has determined that the products listed below are suitable for procurement by the Federal Government under 41 U.S.C. 8501-8506 and 41 CFR 51-2.4.

#### Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small