



October 23, 2017

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

To the USPTO FOIA Officer:

This letter constitutes a request under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and is submitted on behalf of the Electronic Frontier Foundation (EFF). We make this request as part of an ongoing effort to obtain government documents and make them widely available to the public.

Recently, EFF reviewed the docket for IPR2016-01128, *Mylan Pharmaceuticals Inc. v. Allergan, Inc.* (Pet. filed June 3, 2016) made publicly available at <https://ptab.uspto.gov/#/login>. However, that docket only notes documents that have been publicly filed, and appears to omit any document that was filed under a claim to confidentiality. *See, e.g.*, Exhibit No. 2086 (existence of document not shown and document not available via the public portal). The existence of Exhibit No. 2086 is referenced publicly in Paper 96 (Patent Owner's Updated Exhibit List, filed Oct. 20, 2017). In addition, from the public docket it does not appear that the claim of confidentiality for that document was asserted in a motion to seal, but the document is being withheld from the public.

Accordingly, we request:

- A copy of the docket for IPR2016-01128, *Mylan Pharmaceuticals Inc. v. Allergan, Inc.* (Pet. filed June 3, 2016), including specifically and without limitation, the docket containing a list of all documents filed under seal.
- A copy of all documents from IPR2016-01128, *Mylan Pharmaceuticals Inc. v. Allergan, Inc.* (Pet. filed June 3, 2016) filed after September 8, 2017, including specifically and without limitation, full and unredacted copies of: Exhibit 2085, Exhibit 2086, Exhibit 2087, Exhibit 2103, Paper No. 89.

In accordance with FOIA, we request that where available and appropriate, responsive records are provided electronically in their native format, or as text-searchable PDFs, and that the parent/child relationship between records is preserved.

News Media Fee Waiver

EFF requests that it not be charged search or review fees because it qualifies as a representative of the news media, pursuant to FOIA and the applicable federal

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regulations, and has been recognized by the Department of Homeland Security and other federal agencies as such.

EFF maintains a frequently visited web site that reports on the latest developments of, and provides in-depth analysis on, a variety of civil liberties and intellectual property issues. EFF posts documents received in response to FOIA requests here, along with commentary. *See* <https://www.eff.org/issues/foia>.

EFF's newsletter, EFFector, has been published since 1990 and is now sent to over 280,000 subscribers. An archive of past EFFectors is available at <https://www.eff.org/effector>. EFF also maintains a popular blog, Deeplinks, and has produced a series of white papers on diverse issues such as electronic voting, free speech, and intellectual property.

Due to these extensive publication activities, EFF is a "representative of the news media" under the FOIA and agency regulations.

Public Interest Fee Waiver

EFF is entitled to a waiver of search and duplication fees because disclosure of the requested information is in the public interest within the meaning of FOIA.

EFF will make the information obtained under the FOIA available to the public and the media through its web site and newsletter, which highlight developments concerning privacy and civil liberties issues. Because EFF is a representative of the news media, EFF's request presumptively satisfies this criterion.

Finally, a fee waiver is appropriate here because EFF has no commercial interest in the disclosure of the requested records. EFF is a 501(c)(3) nonprofit organization, and will not derive commercial benefit from the information at issue here.

Thank you for your consideration of this request. As the FOIA provides, I will anticipate a determination with respect to the disclosure of requested records within 20 working days. If you have any questions or concerns, do not hesitate to contact me at (415) 436-9333 x160 or vera@eff.org.

Sincerely,

A handwritten signature in blue ink, appearing to read "Vera Ranieri".

Vera Ranieri
Staff Attorney