

United States Patent and Trademark Office Public Key Infrastructure Subscriber Agreement

I request that the United States Patent and Trademark Office (USPTO) issue me a set of public key certificates (a digital signing certificate and an encryption) in accordance with conditions stated herein and as explained and governed by the EFS-Web Legal Framework. *See e.g., Legal Framework for Electronic Filing System – Web (EFS-Web)*, 74 FR 55200 (October 27, 2009) (notice)). I have read and signed the Certificate Action Form [PTO Form-2042] requesting issuance of public key certificates to me for doing business with the USPTO.

I agree that my use and reliance on the USPTO public key certificates is subject to the terms and conditions set out below. By signing the Certificate Action Form [PTO Form-2042], I agree to the terms of this Subscriber Agreement and to the rules and policies of the USPTO including the EFS-Web Legal Framework. I understand that the USPTO may immediately revoke the set of public key certificates issued to me without prior notice for violation of these terms.

1. Identification Information

I warrant that the information I submit, as corrected or updated by me periodically, is true and complete and that I will only use my USPTO certificates to access applications for which I am authorized.

I understand that if any of the information contained in the Certificate Action Form [PTO Form-2042], changes, I agree to update my information within thirty (30) calendar days. This includes loss of right to access a given customer number.

2. Protection of Keys¹

The USPTO will not have a copy of my private key corresponding to the public key contained in the digital signing certificate. I understand that the password I establish in the client software is my responsibility and that the password is unknown to the USPTO. Further, there is no mechanism for the USPTO to find the password. In the event of a lost password, as in the event of the loss of my private key, the USPTO can, at my request, recover only the private key corresponding to the public key contained in the confidentiality certificate and authorize the generation of a new digital signing public/private key pair.

¹ Each public key certificate includes the public key of a public/private key pair. The digital signing key pair is generated by the subscriber's personal computer when completing a certificate creation or recovery action via the Digital Certificate Management Web site and the public key becomes part of the digital signing certificate. Only the subscriber holds the private key corresponding to the public key contained in the digital signing certificate. Both the public and private keys of the confidentiality certificate will be generated by the USPTO Certificate Authority and sent via a secure channel to the subscriber. The USPTO Certificate Authority will hold a copy of the subscriber's private key corresponding to the public key contained in the confidentiality certificate in order to provide key recovery capability.

I agree to keep my password and private key confidential, and to take all reasonable measures to prevent the loss, unauthorized disclosure, modification or use of my password, and private key. I agree that I will be responsible for these items and that no unauthorized person will have access to them.

- a) I agree and acknowledge that, when the USPTO issues me the information permitting me to generate a certificate, the USPTO will keep a copy of my private key corresponding to the public key of my confidentiality certificate, and the USPTO will not disclose this key except with my consent, or where required by law.
- b) I agree to promptly notify the USPTO if my password or private key is lost, compromised or rendered insecure, or if the information contained in my certificate request, including address, e-mail address, or telephone number, has changed, or becomes otherwise incorrect or incomplete.

3. Acceptable Use or Reliance/Designation of Supervised Employee

I will use my USPTO certificates only for electronic communication with the USPTO (*e.g.*, Private Patent Application Information Retrieval (Private PAIR) status inquiry, electronic filing, etc.) in compliance with the rules and policies of the USPTO (*e.g.*, EFS-Web Legal Framework), for applications for which I am authorized to access. I understand that any other use is strictly prohibited. I will use or rely on USPTO certificates only for securing communication with the USPTO, and will not encourage or permit anyone to use or rely on the certificates (other than the USPTO).

I understand that my USPTO certificates are not transferable by any manner in any degree.

I may designate more than one employee to use my USPTO certificates under my direction and control in accordance with this subscriber agreement and the rules and policies of the USPTO including the EFS-Web Legal Framework. Each designated employee must only be either an employee of my organization or an employee of a contractor. Each designated employee will use or rely on granted USPTO certificates only for communication with the USPTO in compliance with the rules and policies of the USPTO and will not encourage or permit anyone to use or rely on the certificates (other than the USPTO).

I understand that I am responsible for each designated employee's use of the USPTO certificates. I will take reasonable steps to ensure compliance of the requirements set forth in this agreement by each designated employee, including the restrictions on the software use in section 5 and the restrictions on the export (including deemed export) of technology and software included in patent applications in section 6. If a designated employee is not a U.S. citizen, I understand that the designated employee's access to the technology and software constitutes an export. *See* section 6 of this agreement.

I agree not to use or permit the use of my USPTO certificates in connection with the unauthorized practice of law. For example, I will not grant permission to an invention promotion company or an invention promoter to use my USPTO certificates. I also understand that if I am a practitioner, violations of the USPTO ethics rules set forth in Parts 10 and 11 of 37 CFR may subject me to disciplinary action. If I have been granted limited recognition by the

Office, I agree not to use the digital certificate beyond the limits of the rights I have been granted.

I understand that my USPTO certificates will be used to access records and systems on a U.S. Government computer system and that unauthorized use or use beyond the purpose authorized may subject me to criminal penalties under U.S. Law and/or disciplinary action. Any inadvertent or other disclosure of nonpublic documents shall in no way be construed as authorized access to such documents. Disclosure of other's nonpublic documents constitutes involuntary unauthorized access and I understand that I must immediately destroy all such material without dissemination to anyone else, retrieve and destroy any such material if disseminated, notify the USPTO of the nature and extent of the unauthorized use, and certify that I have destroyed such material, that I have not granted rights to others to access such material, and that I will not otherwise make use of such material.

4. Revocation of Certificates

The USPTO may immediately revoke my certificates at any time without prior notice if:

- a) any of the information I supply in my certificate request changes and I do not notify the USPTO within thirty (30) calendar days;
- b) the USPTO knows or suspects that my private key has been compromised;
- c) the private key of the issuing USPTO Certificate Authority has been compromised;
- d) the signing certificate of the issuing USPTO Certificate Authority is revoked;
- e) there is unauthorized use such as attempting or gaining access to nonpublic information or inadvertently disclosed nonpublic information;
- f) I use Private PAIR to view another applicant's unpublished application without authorization;
- g) I refuse to destroy, cease dissemination, and/or retrieve any dissemination of any inadvertently disclosed or other nonpublic documents;
- h) I fail to comply with my obligations under this Agreement or the rules or policies of the USPTO, including the EFS-Web Legal Framework;
- i) there is inactivity for an extended period of time; or
- j) for any other reason the USPTO deems necessary.

I understand that, if the USPTO revokes my certificates, the USPTO may subsequently deny any future request(s) I make for certificates at its sole discretion.

The USPTO will promptly notify me of the revocation. Such revocation does not affect the authenticity of a transmission made or a message I digitally signed before certificate revocation.

I may surrender my certificates at any time by written submission to the USPTO at:

Certificate Services Request
U.S. Patent and Trademark Office
Mail Stop EBC
PO Box 1450 Alexandria, VA 22313-1450

5. Software use

I agree to honor (and to make sure that each designated employee will honor) any applicable copyright, patent, or license agreements with respect to any software provided to me by the USPTO, and will not (and will make sure that each designated employee will not) tamper with, alter, destroy, modify, reverse engineer, or decompile such software in any way. I agree not to use (and agree to make sure that each designated employee will not use) the software for any purpose other than communication with the USPTO (*e.g.*, unauthorized access to nonpublic or inadvertently disclosed information).

6. Restrictions on the Export (Including Deemed Export) of Technology and Software Included in Patent Applications

I understand that technology and software included in unpublished patent applications may be subject to export controls set out in the Export Administration Regulations (15 C.F.R. parts 730-774). Access to such technology and software by any person located outside the United States or by a foreign national inside the United States constitutes an export that may require a license from the U.S. Commerce Department's Bureau of Industry and Security ("BIS"). I agree not to use (and to make sure that each designated employee will not use) or permit the use of the USPTO certificate in a manner that would violate or circumvent the Export Administration Regulations.

Information regarding U.S. export controls and their application to technology and software included in patent applications is available from BIS. Please see BIS's Web site, available at www.bis.doc.gov, or contact BIS's Office of Exporter Services at 202-482-4811.

7. Availability

I understand that the USPTO does not warrant or represent 100% availability of the USPTO Public Key Infrastructure services due to system maintenance, repair, or events outside the control of the USPTO. Information regarding scheduled downtime, if known, will appear on the USPTO Web site. Any delays caused by downtime must be addressed through the ordinary petition process.

8. Term of Agreement

This Agreement may be terminated by either party upon notice. In the case of a termination by the USPTO, notice may be provided by any reasonable means, including a posting on the USPTO Web site.

9. General

If any provision of this Agreement is declared by a court to be invalid, illegal, or unenforceable, all other provisions shall remain in full force and effect.

The USPTO reserves the right to refuse to issue certificates. The USPTO reserves the right to cancel this program at any time. Modifications to this agreement will be posted on the USPTO Web site at www.uspto.gov/patents/ebc/about.jsp. Continued use of the system after posting will constitute agreement to the updated terms.

I understand that the certificates issued to me are not licenses required by law and are not to be construed as any form of permission or authority from the USPTO to file a document in the Office in violation of any patent rule.

Nothing in this agreement precludes the exercise of Office of Enrollment and Discipline jurisdiction.

10. Requests

Requests for issuance of certificates, revocation of certificates or key recovery shall be sent to the USPTO Registration Authority at:

Certificate Services Request

U.S. Patent and Trademark Office Mail Stop EBC PO Box 1450 Alexandria, VA 22313-1450

11. Dispute Resolution and Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the United States of America.