

United States Department of Energy
Office of Hearings and Appeals

In the Matter of Bill Streifer)
)
Filing Date: February 27, 2015)
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Case No.: FIA-15-0009

Issued: March 31, 2015

Decision and Order

This Decision concerns an Appeal that Bill Streifer filed in response to a determination that the Department of Energy's (DOE) Office of Information Resources (OIR) issued to him on February 20, 2015. In that determination, the OIR replied to a request for documents that Mr. Streifer submitted under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, as implemented by the Department of Energy (DOE) in 10 C.F.R. Part 1004. This Appeal, if granted, would require that the OIR conduct another search for responsive documents.¹

I. BACKGROUND

In his request, Mr. Streifer sought access to a list of all patents whose inventors were eligible for any compensation for the use of the patents during the Manhattan Project's development of the atomic bomb, including the name of the patent, the name of the inventor, the patent number, the patent filing date, the date of publication, and the date that the patent was classified and then declassified, if applicable. He also requested a list of all inventors who were eligible for such compensation and claimed it, and a list of all eligible inventors who did not file a claim. Mr. Streifer later amended his request to include any document setting forth a deadline for filing such claims, any document explaining what would happen if such a claim was not filed by that deadline, and any document that discusses how and when inventors holding atomic patents were notified that such compensation was available.

On February 20, 2015, OIR responded to Mr. Streifer's request. In this response, OIR informed Mr. Streifer that his request had been referred to the DOE's Office of General Counsel, which had searched its records and had been unable to locate any responsive documents. On February 27, 2015, Mr. Streifer filed an Appeal in which he challenged the adequacy of OIR's search for responsive documents.

¹Decisions issued by the OHA are available on the OHA website located at <http://www.energy.gov/oha>.

II. ANALYSIS

The FOIA requires that documents held by federal agencies generally be released to the public upon request. We have stated on numerous occasions that a FOIA request deserves a thorough and conscientious search for responsive documents, and we have not hesitated to remand a case where it is evident that the search conducted was in fact inadequate. *See, e.g., Butler, Vines and Babb, P.L.L.C.*, Case No. VFA-0098 (1995). The FOIA, however, requires that a search be reasonable, not exhaustive. "[T]he standard of reasonableness which we apply to agency search procedures does not require absolute exhaustion of the files; instead, it requires a search reasonably calculated to uncover the sought materials." *Miller v. Department of State*, 779 F.2d 1378, 1384-85 (8th Cir. 1985); *accord, Weisberg v. Department of Justice*, 745 F.2d 1476, 1485 (D.C. Cir. 1984). The fact that the results of a search do not meet the requester's expectations does not necessarily mean that the search was inadequate. Instead, in evaluating the adequacy of a search, our inquiry generally focuses on the scope of the search that was performed. *Information Focus On Energy*, Case No. VFA-0353 (1997).

In order to determine whether the search conducted was adequate, we contacted OIR. We were informed that OIR referred the request to the Office of General Counsel (OGC), which "has an Intellectual Property Office, which handles patents." March 23, 2015, e-mail from Yordanos A. Woldai, OIR, to Robert Palmer, Senior Staff Attorney, Office of Hearings and Appeals. OGC conducted a manual search of its archived records and did not find any responsive documents. Ms. Woldai also informed us that she asked the Office of Scientific and Technical Information, which maintains a "DOePatent Database," and the Office of Science whether they had any documents that were responsive to Mr. Streifer's request, and they both responded that they did not. *See* March 23, 2015, e-mail from Ms. Woldai to Mr. Palmer. Based on information developed after the determination was issued, OIR also contacted the History Office, which conducted a search of its records. No responsive documents were located. *See* March 30, 2015, e-mail from Ms. Woldai to Mr. Palmer.

After considering the information described above, we conclude that OIR's search was reasonably calculated to uncover the requested materials, and was therefore adequate. We will therefore deny Mr. Streifer's Appeal.

It Is Therefore Ordered That:

- (1) The Appeal filed on February 27, 2015, by Bill Streifer, OHA Case No. FIA-15-0009, is hereby denied.
- (2) This is a final order of the Department of Energy from which any aggrieved party may seek judicial review pursuant to 5 U.S.C. § 552(a)(4)(B). Judicial review may be sought in the district in which the requester resides or has a principal place of business, or in which the agency records are situated, or in the District of Columbia.

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Date: March 31, 2015