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Request to the Postal Regulatory Commission under 39 USC 3642¹ & 39 CFR 3020.50 to add Private Address Forwarding to the Mail Classification Schedule

As a user of the mail, I respectfully request that the Postal Regulatory Commission (PRC) add Private Address Forwarding (PAF) to the market dominant list as a special service.

To the best of my knowledge, I am the first person to have ever filed a request under this statute. Although I am not a lawyer, I have done my best to address all of its requirements here. I respectfully request the Commission's leniency on any points I may have fulfilled inadequately, and mutual cooperation as we explore the first use of this important new mechanism for ordinary citizens to propose improvements in mail service.

I would also like to say upfront that my proposal here is in no way meant to challenge the USPS' primary role in determining its services; I am simply using the only avenue for proposing a new service that I see in the law. I would be happy to work together with the USPS, PRC, and any other concerned parties in perfecting this proposal. I offer the following as a working draft, with the expectation that others will have major input on its final form.

Proposal for Private Address Forwarding²

1505.23 Private Address Forwarding

1505.23.1 Description

1. Private Address Forwarding (PAF) is a service that forwards mail addressed to a unique PAF identifier (PAF ID) to the physical address specified by the owner of that PAF ID ("PAF customer").
 - a. Mail may be addressed simply to e.g. "PAF 13JS-00EG-C(, United States)".
 - i. The USPS shall designate stand-in city, state, and ZIP code values to be used with PAF IDs in legacy systems that require those values to address mail — e.g. "PAF 13JS-00EG-C, Privacy, DC 09900, United States".
 - b. On receipt, the USPS will look up the PAF ID's forwarding address, add a standard mail forwarding sticker to the parcel, and then continue processing it as any normally addressed mail.
 - i. Ideally, the mail forwarding sticker should overlay and obscure the underlying PAF ID, to protect the privacy of the PAF customer by deterring people from seeing that a given PAF ID corresponds to a given forwarding address.
 - ii. If the PAF ID does not exist, the PAF customer has canceled it, or its checksum is invalid, the mail should be returned to sender with an indication of why the specified PAF ID is invalid.
2. Any person (except as per section (b) below) who controls a deliverable mail address in the United States (whether residential, commercial, or PO Box) may apply for a PAF ID by making an application to the USPS.
 - a. The application shall require the customer's legal name, desired initial forwarding address, and PAF fee, as

¹ "Upon request of ... users of the mails ... the Postal Regulatory Commission may change the list of market-dominant products under section 3621..."

² 39 CFR 3020.51(e) requests that I provide this proposal in the format and context of an amendment to the Mail Classification Schedule.

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well as a statement under perjury that they will not use the PAF in a prohibited manner (e.g. per section (c) below). A customer's first PAF ID application shall also require a postal employee to personally verify the customer's name and address by adequate government-issued documentation (e.g. driver's license, passport, certificate of incorporation, etc).

- b. On accepting the customer's initial PAF ID application, USPS shall issue the PAF customer a username and password, by means of which they can manage their PAF service online (e.g. to update the address, pay fees, cancel a PAF ID, register a new PAF ID, etc).
 - c. The USPS shall refuse PAF service to customers who have:
 - i. been documented to abuse PAF (e.g. companies or principals thereof that have used PAF IDs to deter service of process, people who have used a PAF ID as part of a crime of which they have been convicted, etc)
 - ii. a legal responsibility to disclose their physical location (e.g. government entities and agents for service of process)
 - iii. been convicted of mail fraud, identity theft, or abuse of legal process (e.g. being determined a vexatious litigant, having a legal bar license revoked, etc)
 - d. Third parties (e.g. DMV, voter registration organizations, etc) may choose to refuse to accept PAF addresses if they have a compelling reason to know the actual physical location of the customer or to send mail via a non-USPS carrier. Third parties should not refuse to accept PAF addresses if their need for the customer's address is to send mail to their customer and USPS' postal services are adequate for that purpose.
3. A PAF customer may have as many distinct PAF IDs as they want, so long as they pay a fee for each PAF ID and do not abuse the service. (For instance, a PAF customer may wish to have distinct IDs for personal and business mail, to prevent third parties from knowing that the two IDs belong to the same person.)
 4. The PAF ID is a unique, random, alphanumeric identifier.
 - a. For privacy reasons, the PAF ID must not be issued in sequential order, and must not implicitly disclose any information about the PAF customer. For instance, PAF IDs must not have some substring that indicates the post office (or region) in which the PAF application was made.
 - b. PAF IDs should be created as Base32-Crockford encoded³, securely random 40-bit integer⁴, plus a Base32-Crockford encoded CRC-5 checksum, with an optional dash every 4 characters – e.g. 13JS-00EG-C. Being based on a random number prevents any privacy leak from the ID itself; the size makes it impossible to guess. Base 32-Crockford encoding excludes visually confusable characters while still maintaining a relatively compact, case insensitive format, as well as a checksum to prevent typos⁵. At only 9 characters (plus optional dash), it is still compact and easy to use.
 5. The PAF ID must be issued by and maintained in a central, nationwide USPS database. Each record in the database should contain:
 - a. the (globally unique) PAF ID(s) of the PAF customer
 - b. dates of assignment, updates, cancellation, payment, etc
 - c. current & historical legal name(s) of PAF customer⁶
 - d. type and ID numbers of identifying documents verified by postal employees, and the identity of the employee who verified them
 - e. current & historical forwarding addresses
 6. The PAF customer can at any time visit a US Post Office and, by again presenting ID verification, request that a PAF ID they control be forwarded to a new destination address. They should also be able to change their forwarding

³ See RFC 4648 § 6 (<http://tools.ietf.org/html/rfc4648>) for standard Base32; <http://www.crockford.com/wrmg/base32.html> for Crockford's variant

⁴ This is notionally similar to a UUID (RFC 4122 § 4.4, <http://tools.ietf.org/html/rfc4122>), though smaller for usability, and therefore guaranteed unique only by use of a central issuing server (rather than by pure improbability).

⁵ The checksum can be used to notify mailers of the difference between a nonexistent or cancelled PAF ID and a mistyped one, and to enable them to verify at least the formal validity of a PAF address (like the Luhn algorithm does for credit card numbers)

⁶ "historical" i.e. in case of legal name change

address online, in a manner similar to what is used currently for mail forwarding, using the credentials provided per 2(b) above.

- a. A PAF customer should be able to briefly suspend mail forwarding — i.e. to direct the USPS to hold all mail for a short period — to cover periods where they do not have a predictably stable receiving address, e.g. during a complicated move or extended travel. There may be an additional charge for this service, since it requires the USPS to pay for temporary storage space at mail sorting facilities.
- 7. The identity or forwarding address of a PAF customer must not be disclosed to any person, except for USPS employees who have an actual need to know (e.g. because they are manually processing incoming mail addressed to a PAF ID), except:
 - a. by a subpoena which can be anonymously contested by the PAF customer and for which the PAF customer has adequate notification,
 - b. by a properly obtained pen register warrant to secretly disclose that information where necessary for a criminal investigation, or
 - c. by the PAF customer's explicit, opt-in, specific consent, e.g. to permit a third party mail carrier (UPS, FedEx, etc) to service their PAF-addressed mail
 - i. In such cases, the third party must sign a nondisclosure agreement prohibiting them from disclosing or storing the released information except to the extent necessary to provide the service for which the information was disclosed, enforceable both by the PAF customer and the USPS.
 - ii. The USPS should provide an API for registered third parties both to obtain permission from a PAF user for access to their information and to determine the current forwarding address of a user who has granted such access.
- 8. The cost to ship to a PAF customer must not vary depending on their location⁷, as this would at least partially compromise the PAF customer's privacy. The cost, if it would normally vary by destination, should be set to the overall average cost to ship to PAF customers.
- 9. Valid PAF IDs should be permitted as adequate sender / return-to addresses, though PAF customers should be cautioned that sending mail in this way will compromise their privacy by revealing to the recipient the location of the post office that initially processed their mail.
 - a. The USPS may require senders using PAF IDs as their return address to list their PAF-registered name as well.⁸

1505.23.2 Prices⁹

The following would be initial pricing for PAF service. The prices should be updated yearly in accordance with 39 USC 3622(d)(1)(a).

Enrollment of first PAF ID	\$35 (per year)
Enrollment of any subsequent PAF ID	\$25 (per year)
Change of forwarding address of an extant PAF ID	\$5 (one time)
Temporary hold of PAF mail	\$5 per basket per week
Cancellation of a PAF ID	\$0

Mail Product Classification

⁷ 39 USC 3622(b)(2)

⁸ 39 USC 3622(c)(13)

⁹ 39 CFR 3020.52(b)

39 CFR 3020.51(b,c) and 3020.52(a) ask that I indicate how PAF should be classified. Although I am more interested in this service being provided than how it is classified, and therefore I defer entirely to the USPS and PRC on this matter, I believe, based on reading the US Code specifications, that the following is correct:

Because PAF is based on adding a new option to the format of postal mail addressing in general, and because the USPS would need to maintain a centralized, private database of PAF ID destination addresses, this is a product for which the USPS would have a *de facto* monopoly¹⁰, and therefore constitutes a "market dominant" product¹¹. PAF would be a product of "general applicability"¹² (i.e. it would be available nationwide) and not a "special classification"¹³ (i.e. it would be available to all customers of the mail).

Benefits & market value of PAF over existing services¹⁴

1. PAF would permit PAF customers to receive mail from third parties without disclosing their identity or physical address. This is extremely valuable for people who value their privacy¹⁵ for any number of reasons — e.g. people with stalkers, abusive ex-spouses, sensitive jobs, sensitive mail, etc..
2. Unlike PO boxes and private mailbox services, a PAF would not use up valuable and restricted physical space. It would potentially be much cheaper to provide¹⁶ than PO box service, because it only requires a software-level difference in mail processing, rather than any physical service or maintenance of boxes, and does not require any physical space (whereas providing PO boxes require the USPS to pay for larger amounts of real estate).

PAF would also not require customers to visit their post office to receive mail, which is time consuming and can be prohibitive for people with disabilities or restricted time availability (e.g. people who have to work during USPS business hours).

PAF availability would reduce or eliminate the misuse of PO boxes for forwarding in violation of DMM 508 4.4.6.

3. PAF would permit PAF customers to keep the same PAF ID based mailing address indefinitely, even across multiple changes of physical address¹⁷. This would save on the costs¹⁸ of repeatedly changing normal mail forwarding¹⁹, differentiating mail forwarding based on name and address²⁰ (to discern current from former residents), etc, especially for people who move frequently. It would provide overall economic benefits from mail customers from not having to update the address they have on file with every company they do business with²¹ when they move (since as far as the mail sender is concerned, there is no change) — thus saving significant amounts of time and money²² for both the recipient and sender, as well as for the USPS in handling traditional mail forwarding.
4. PAF is completely compatible with credit card address based authentication²³. Just as now, a credit card customer

¹⁰ Please note that this is only a *de facto* monopoly, i.e. market dominance. PAF would not come under the postal monopoly proper as defined in 18 USC 1696.

¹¹ 39 USC 3642(b)(1)

¹² 39 USC 3632(b)(2)

¹³ 39 USC 3622(10)

¹⁴ 39 USC 3622(c)(1)

¹⁵ 39 USC 3622(b)(7)

¹⁶ 39 USC 3622(b)(1)

¹⁷ 39 USC 3622(b)(2)

¹⁸ 39 USC 3622(b)(1)

¹⁹ 39 USC 3622(b)(6)

²⁰ 39 USC 3622(c)(5)

²¹ 39 USC 3622(h)

²² 39 USC 3622(b)(1)

²³ 39 USC 3622(c)(10)(b)

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could notify their bank of their PAF address, then tell a merchant their PAF address and credit card details. The PAF address could be used by the merchant both to verify the credit card and to ship goods — so long as the goods are shipped via USPS, which would drive more service to the USPS²⁴.

5. To the best of my knowledge, private parties do not currently offer an equivalent service to PAF²⁵. The most similar services I am aware of that are offered by private parties are
 - a. private mailbox services (e.g. those provided by the "UPS Store" f/k/a "Mailboxes Etc."), to the extent that they arrange with their customer to forward mail
 - b. lawyers and agents for service of process, who arrange with their clients to privately forward mail

Of course, private carriers could develop their own PAF-type products further.

However, PAF IDs would necessarily be particular to each carrier, and carriers could not offer the same level of legal privacy guarantees to their users (as they are not bound by the same legal restrictions for disclosure or opening of mail as the USPS).

Private PAF-type services (unless run by a shipping company like UPS or FedEx) would also necessarily incur higher costs and delivery times than the USPS²⁶, as they would have to first receive delivery at their business address and then ship parcels on to the customer, rather than shipping directly from the sender to the customer.

Public comment provisions

I expect this proposal to be of interest to the general public, particularly those who are concerned with security and privacy, who will want to provide feedback to the Commission that takes into account the USPS' 28-day preliminary response under 39 CFR 3020.54. Therefore, I respectfully request that the Commission provide a period and method for public comment on this proposal under 39 CFR 3020.53(e) which would be adequate to permit the public to consider both this proposal and the USPS' response, and to comment in that context.

Specifically, I request that, to the extent possible,

- A. the Commission publish the USPS' response to this proposal in a manner easily accessible to the public immediately upon its receipt,
- B. the public comment period extend to 1 month after publication of the USPS' response (i.e. 2 months from the date of initial publication of this proposal),
- C. the PRC designate a specific e-mail address to which public comments on this specific proposal can be easily sent (without the public having to individually register for a PRC online filing account), and
- D. the PRC publish all public comments it has received to date at least once per week, together with some standard identifier for each comment, so that the public can respond to each others' comments.

Conclusion

Please feel free to contact me if you have any questions or comments. The above should be regarded as only a draft standards proposal. My professional background includes security, privacy, and user experience work, not postal management and processing; accordingly, the concerns I express above as standards are primarily based on privacy, security, and usability, and I

²⁴ 39 USC 3622(b)(5)

²⁵ 39 CFR 3020.52(f)

²⁶ 39 USC 3622(c)(9)

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expect that concerns outside of my knowledge or expertise will need to be addressed before this proposal is finalized.

I would be happy to offer whatever assistance I can to the USPS and/or PRC based on my areas of expertise and vision for this new postal product.

For full disclosure, I would like to state that I have no financial or other stake whatsoever in the outcome of this proposal, other than that I am a US citizen interested in improving the USPS, and that I would myself use PAF when/if it is made available. I am in no way involved with any mail-related company other than as a customer, and am filing this proposal purely as a private user of the mails, in the public interest. My proposal is, to the best of my knowledge, wholly of my own invention.

Sincerely,
Sai

P.S. Please note that "Sai" is my full legal name; I am mononymic.

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

REQUEST TO ADD PRIVATE ADDRESS FORWARDING TO THE MARKET DOMINANT PRODUCT LIST

Docket No. MC2013-60

**COMMENTS OF THE UNITED STATES POSTAL SERVICE
IN RESPONSE TO NOTICE AND ORDER
CONCERNING REQUEST TO ADD PRIVATE ADDRESS FORWARDING
TO THE MARKET DOMINANT PRODUCT LIST**
(October 16, 2013)

The United States Postal Service hereby submits its comments and preliminary views regarding the Private Address Forwarding product concept, as directed by Postal Regulatory Commission Order No. 1838.¹

Under 39 U.S.C. § 3642(a), users of the mail may request that the Commission consider changes to the list of market dominant products under section 3621 or the list of competitive products under section 3631 by adding new products to either list. The Commission has received such a request in relation to a product concept designated by the requester as *Private Address Forwarding*.² The Commission has established a process for determining whether and, if so, how it might review the merits of such mail user requests. See 39 C.F.R. § 3020, Subpart C. For the reasons explained below, the Commission should exercise its authority under 39 C.F.R. § 3020.55 to reject the request that the Mail Classification Schedule be amended to include a *Private Address*

¹ Docket No. MC2013-60, Notice and Order Concerning Request to Add Private Address Forwarding to the Market Dominant Product List (September 23, 2013).

² Docket No. MC2013-60, Request to the Postal Regulatory Commission under 39 USC 3642 & 39 CFR 3020.50 to add Private Address Forwarding to the Mail Classification Schedule (September 17, 2013) (hereinafter, the PAF Request).

Forwarding (or similar) product. In doing so, the Commission should decline to institute further proceedings to consider the PAF Request, and refrain from directing the Postal Service to expend resources to analyze or develop any form of the proposed product concept beyond any the Postal Service may independently choose to expend for the purpose of examining the feasibility of product proposals for potential submission to its Board of Governors for such action as it may take under authority of 39 U.S.C. §§ 3632, 3633, 3641 or 3642.

I. The Feasibility of the Product Concept Has Not Been Determined

A. Postal Management Has Discretion Regarding Product Development

1. The Underlying Concept Is Independently Under Consideration

The planning and development of postal services is reserved to the Postal Service by section 39 U.S.C. § 403(a). Accordingly, examination of potential mail product concepts is an ongoing endeavor at Postal Service headquarters. The *Personal Address Forwarding* (PAF) product concept summarized in the Request appears to be similar to others that have circulated within the Postal Service starting more than a decade ago, either as a discrete product concept or as part of a larger suite of potential services.

For instance, U.S. Patent No. 7,295,997 (application 10/311,748 filed June 19, 2001) references a concept in which merchants generate mailing:

[I]label information [that] may include a unique identifier, for example, a random number or a barcode, to identify the customer, but may not include the customer's name or address information. . . . Once the shipper receives the package, the shipper may read or scan the label to determine the customer's name and address, apply new label that has the customer's name and address to the package, and ship the package to the customer. Accordingly, in this

embodiment, the customer's information remains anonymous from the merchant.³

Another innovation can be found in the patent application for *Mail My Way*, which envisions that:

a "virtual address" or "vanity address" is arbitrary character data defined by a mail recipient that is other than a physical address or mailing address of the customer. Desirably, customers may create a virtual/vanity address for use in lieu of their mailing or physical address via the customer interface.⁴

The Postal Service recently also has applied for a trademark for another similar concept under the name of *Digital License Plate (DLP)*.⁵

The common ground between PAF and these other concepts appears to be as follows:

- the secure recording and storage of unique digital or alpha-numeric codes in postal data systems at the request of mail recipients,
- the use of these codes to represent the postal delivery addresses to which recipients want mail delivered,
- acceptance by the Postal Service of mail bearing these codes in lieu of delivery addresses, and
- utilization of the recipient-specific codes by the Postal Service as a basis for processing and delivery of their mail to them.

³ See <http://patft.uspto.gov/netacgi/nph-Parser?Sect1=PTO2&Sect2=HITOFF&p=1&u=%2Fnetacgi%2FPTO%2Fsearch-bool.html&r=5&f=G&l=50&co1=AND&d=PTXT&s1=7,295,997&OS=7,295,997&RS=7,295,997>

⁴ See <http://appft.uspto.gov/netacgi/nph-Parser?Sect1=PTO2&Sect2=HITOFF&p=1&u=%2Fnetacgi%2FPTO%2Fsearch-bool.html&r=1&f=G&l=50&co1=AND&d=PG01&s1=20120011068&OS=20120011068&RS=20120011068>

⁵ See the attached copy of Trademark Application 8600747 (July 2, 2013). The *Digital License Plate* concept includes providing authentication of personal identification, secure storage of personal information, and encoding of identification information on valuable documents and products. To simplify the discussion below comparing PAF to similar internally-generated product concepts, the Postal Service will reference only the *Digital License Plate* product concept.

At any given time at postal headquarters, multiple product concepts conceived by or presented to postal managers and analysts in various functional groups are under consideration. Consistent with its authority under section 403(a), postal management determines if and when to devote resources to examining such issues as the availability of technology, operational feasibility, associated costs, potential demand, marketability, and the policy implications of providing a particular product or service. Each product concept faces competition for limited investigative and/or developmental resources within the agency. Responsible senior postal managers must use their judgment to prioritize the concepts to which analytical resources are devoted.

2. Many Underlying Operational Issues Are Unresolved

Product concepts along the lines of the *Digital License Plate (or Personal Address Forwarding)* require examination of such issues as whether existing postal systems for online and in-person customer enrollment and identification are sufficient or would need modification.⁶ Presently, no system for storing records of coded customer identities and addresses for purposes of a product like DLP exists.⁷ Mail processing equipment image recognition software equipment would have to be examined in order to determine how it might need to be modified to process digital address codes and look-up corresponding addresses. Options for application of a machine-readable

⁶ In consultation with the Postal Inspection Service, management would need to establish an appropriate level of compatibility with National Institute of Standards and Technology and other cyber-security protocols for any new information technology systems developed for the product.

⁷ The creation of a records system containing such information requires compliance with the Privacy Act, 5. U.S.C. 552a, and establishment of conditions under which records are securely stored, and the degree to which access to records within the system is generally restricted but accessible to such governmental instrumentalities as law enforcement and social service agencies, and courts on a need-to-know basis.

barcode and/or human readable address labels to mail pieces would need to be explored.⁸

Because the PAF product concept bears similarity to DLP and other concepts in its product development pipeline, the Postal Service can readily identify some relevant issues and considerations. The product concept has features that would complicate a full investigation of its merits. For example, the feasibility of applying the concept to all types and shapes of mail (letters/card vs. flats vs. parcels) directed to a registered recipient poses challenges, given variances that exist in the potential for integrating various mail streams with technology capable of reading and confirming the validity of a recipient's address code and affixing machine-readable delivery barcodes or human-readable address labels. The Postal Service cannot presently project if and when internal examination of the various technological issues that affect the feasibility of DLP (or any variant thereof) will make further progress or be completed. Nor can it predict the extent to which related security and privacy issues can be resolved with sufficient satisfaction to encourage exploration of potential costs, prices or customer demand.

3. Numerous Privacy Issues Would Need To Be Resolved

At page 3, the PAF Request proposes that the "identity or forwarding address of a PAF customer" not be disclosed outside of the following narrow set of circumstances: postal employees with a need to know, a subpoena that can be anonymously contested

⁸ For instance, the feasibility of integration with the Postal Automation Redirection System (PARS) would need to be examined. PARS is a system currently in use and designed to intercept and process Undeliverable-As-Addressed mail pieces using automated techniques.

by the PAF customer, a pen register warrant, and by the PAF customer's consent to allow a third party mail carrier to service their PAF-addressed mail.⁹

The Privacy Act, 5 U.S.C. § 552a, provides that information may be disclosed from a system of records if the individual has authorized the disclosure in writing, or if the disclosure fits within a specified category specified by section 552a(b). Authorized disclosures include to the Bureau of the Census for purposes related to census and survey activities, to other domestic government agencies for a civil or criminal law enforcement activity if the activity is authorized by law, and to a person upon a showing of compelling circumstances affecting an individual's health or safety. These authorized categories of disclosure reflect the fact that Federal agencies have both a duty to protect personal information and to disclose information to third parties, in an appropriate manner, if such disclosure serves a legitimate public interest.¹⁰

To that end, 5 U.S.C. § 552a(b) also permits agencies to disclose information for routine uses for which the agency has provided proper notice. Under this provision, the Postal Service has developed a set of standard routine use disclosures that comport with the policy objectives reflected in the Privacy Act. These disclosures include, for

⁹ Some of these proposals may be contrary to existing statutes and/or Postal Service regulations. Under PAF, the Postal Service would enter into non-disclosure agreements with private delivery firms and share PAF customer name and address information with private delivery service employees authorized to receive and relay PAF-coded mail delivered by the Postal Service to the address designated by the PAF subscriber. Such arrangements would raise legal and liability risks for the Postal Service that would warrant in-depth exploration.

¹⁰ Postal Service regulations reflect the agency's responsibility to balance competing interests when determining whether records should be disclosed. It is the postal policy to make its official records available to the public to the maximum extent consistent with the public interest. If disclosure is not prohibited by statute, Executive Order, or regulation, the Postal Service exercises its discretion as to whether to disclose after considering the following: the effect of non-disclosure on the public's right to know about a particular matter, the effect of disclosure on the right of privacy of any affected individuals; the effect of disclosure on the public interest in the economical, efficient, and orderly operation of the nation's mail system; and any other factors that may be relevant under the circumstances. See 39 C.F.R. § 265.2.

example, disclosures to agencies and entities such as credit bureaus that perform identity verification and credit risk assessment services, or to government agencies when necessary in connection with decisions by the requesting agency to issue licenses, grants, or other benefits.¹¹ To advance certain of these public policy goals, the Postal Service would likely need to include routine uses that extend beyond the limited circumstances described in the PAF Request.

Moreover, the PAF Request appears to contemplate the disclosure of additional information to, or the collection of additional information from, third parties. For example, in order to effectuate the proposal that the Postal Service refuse PAF service to customers who are documented to have abused PAF or who have been convicted of mail fraud, identity theft, or abuse of legal process, the Postal Service would have to establish PAF-system specific routine uses that would allow for disclosure of a PAF customer's name and actual physical location to third parties in order to confirm convictions or other necessary information. Alternatively, the Postal Service may have to collect such information from those third parties and store it in the PAF database. The PAF Request asserts that PAF would benefit customers who wish to receive mail without disclosing their identity or physical address.¹² It is worth noting that the Postal Service currently has procedures in place that protect the identities and street addresses of individuals. The current Postal Service Privacy Act system of records for

¹¹ For a complete list of standard routine uses, see "Standard Routine Uses," Handbook AS-353, *Guide to Privacy, the Freedom of Information Act, and Records Management*, available at http://about.usps.com/handbooks/as353/as353apdx_007.htm.

¹² It is asserted that PAF addresses would permit "customers to receive mail from third parties without disclosing their identity or physical address" and that it would be "extremely valuable for people who value their privacy...e.g., people with stalkers, abusive ex-spouses, sensitive jobs, sensitive mail, etc." PAF Request at 4. However, it is not clear to the Postal Service that all categories of persons lumped together here place equal value on non-disclosure of their names as they do their physical addresses.

address change, mail forwarding, and related services illustrates how the Postal Service both allows for certain disclosures, while generally protecting such information.¹³ It bears emphasizing that the routine uses within this records system are subject to the exception that information concerning an individual who has filed an appropriate protective court order with the postmaster/Computerized Forwarding System manager will not be disclosed under any routine use except pursuant to the order of a court of competent jurisdiction. New addresses of domestic violence shelters are subject only to a subset of the disclosures listed. New address information from permanent change-of-address orders will not be given to mailers unless the mailer is already in possession of particular information regarding the customer. Any future determination of the extent to which the PAF product concept could be said to enhance customer privacy¹⁴ requires examination of the degree to which current postal services already provide some of the same privacy protections.

II. The Commission Should Evaluate the PAF Proposal in Light of the Factual Context and the Commission's and the Postal Service's Respective Roles in the Statutory Scheme

Mail users have always played a role in the Postal Service's pursuit of refinements to existing mail classifications and in urging the development of new products that also achieve the policies of chapter 36 of title 39. As the Commission is well aware, the Postal Service does not suffer for a lack of direct interaction with household, commercial and institutional customers regarding existing product offerings,

¹³ See "USPS 800.000 System Name: Address Change, Mail Forwarding, and Related Services", Handbook AS-353, *Guide to Privacy, the Freedom of Information Act, and Records Management*, available at http://about.usps.com/handbooks/as353/as353apdx_040.htm.

¹⁴ Or have other purported "[b]enefits . . . [and] market value over existing services". PAF Request at 4.

how such products could be changed, or how they could be complemented by the establishment of new ones. However, the Post Office Department could not have considered instituting Airmail service and prices before the feasibility of air transportation was established. And the Postal Service could not have established barcode-based presort classifications before the advent of barcoded mail sortation technology, or delivery confirmation and tracking services without being able to implement proper scanning technology and procedures. Similarly, the Postal Service presently does not contemplate that it would offer products such as DLP (or any variation thereof) until it has explored and resolved the above-referenced technological, security and privacy questions to its own satisfaction.

Over the last several decades, the Commission has reviewed many classification change proposals and new product initiatives, some of which were designed for the benefit and convenience of a broad swath of customers (Delivery Confirmation, Qualified Business Reply Mail and the Forever Stamp, for example), or for different components of the bulk mailing industry (the various mail classifications based on utilization of different generations of letter and flat mail sortation technology). The Postal Service respects the role established by the Congress for the Commission in 39 U.S.C. §§ 3622, 3633 and 3642 as it relates to the establishment of mail classifications and special services. When exercising its authority under section 3642, the Commission should give careful consideration and due regard to the Postal Service's authorities and responsibilities under 39 U.S.C. § 403(a), the statutory scheme, and the policies embodied in the Title 39 U.S.C. In this regard, in this instance, the Commission's determinations should be made particularly in light of the Postal Service's

responsibilities and prerogatives to allocate its scarce capital, technological and human resources within the context of overall financial, operational, and service objectives, as determined by postal management. Here, the establishment of a new product depends on the availability of mail processing technologies (and related security and privacy systems) not currently in existence, or the linkage of technologies presently not integrated.¹⁵ In this context, the Postal Service has the duty to evaluate the feasibility, direction and prioritization of diverse pre-decisional product development investigations. These considerations are particularly important, when no allegation has been made and no evidence has been offered to support the conclusion that the present unavailability of the product in question violates any policy of Title 39 U.S.C.

The informal dialogue directly between the Postal Service and its diverse customer base regarding potential new products is never-ending. In this regard, the Postal Service greatly appreciates it whenever a customer offers constructive thoughts in an articulate manner about a postal product concept that he or she finds appealing, and requests that the concept be brought to the attention of responsible postal analysts and decision-makers. That has been accomplished by the Request filed in this docket, which has been transmitted by the Commission to the Postal Service.

The roles of the Postal Service, the Commission, and customers, however, should be carefully balanced, in light of the provisions of section 3642 and 39 C.F.R. § 3020, Subpart C. The opportunity to affect postal services within the framework of these provisions and the statutory scheme should not be misread to overtake the Postal Service's responsibilities and prerogatives to determine postal policy and operations, or

¹⁵ As opposed to merely reclassifying and/or re-pricing the components of an existing product or mailstream.

to lead to Commission determinations that would, among other things, require Postal Service management to reveal its pre-decisional deliberations about new product concepts, interfere with the process of determining new product concepts the Postal Service should explore, or compel postal management to justify its current priorities, subject to the risk of a Commission order rearranging them. In these respects, the Postal Service trusts that the Commission will exercise the opportunities created under section 3642 and 39 C.F.R. § 3020.55 prudently, and with due regard to the Postal Service's role in the statutory scheme, including the policies embodied in sections 403, 404, 3621-22, 3622-23, and other provisions of the Title 39 U.S.C.

The Postal Service consider that, in this instance, it would not be appropriate for the Commission to impose upon it a formal obligation to publish a status reports or relative rankings of DLP or other product proposals, or for the Commission to schedule or require negotiations or dialogue between the Postal Service and a requester under section 3642(a). In light of the considerations outlined above, the Postal Service considers that the appropriate course of action for the Commission in this docket is to exercise the option specified in 39 C.F.R. § 3020.55(b) and reject the request to add *Personal Address Forwarding* (or any variant thereof) to the Mail Classification Schedule.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

Daniel J. Foucheaux, Jr.
Chief Counsel, Pricing & Product Support

Michael T. Tidwell

475 L'Enfant Plaza, S.W.
Washington, D.C. 20260-1137
(202) 268-2998, Fax -5402
October 16, 2013

**Trademarks > Trademark Electronic Search System (TESS)**

TESS was last updated on Tue Oct 15 03:20:30 EDT 2013

[TESS HOME](#) | [NEW USER](#) | [STRUCTURED](#) | [FREE FORM](#) | [BROWSE DICT](#) | [SEARCH OG](#) | [BOTTOM](#) | [HELP](#)[Logout](#) Please logout when you are done to release system resources allocated for you.**Record 1 out of 1**[TSDR](#) | [ASSIGN Status](#) | [TTAB Status](#) (Use the "Back" button of the Internet Browser to return to TESS)**DIGITAL LICENSE PLATE****Word Mark DIGITAL LICENSE PLATE**

Goods and Services IC 045. US 100 101. G & S: IDENTIFICATION VERIFICATION SERVICES, NAMELY, PROVIDING AUTHENTICATION OF PERSONAL IDENTIFICATION INFORMATION; IDENTIFICATION VERIFICATION SERVICES, NAMELY, PROVIDING AUTHENTICATION OF PERSONAL IDENTIFICATION INFORMATION VIA SECURE STORAGE AND TRANSMITTING SUCH INFORMATION VIA THE INTERNET; SECURITY CLEARANCE FOR PREPARATION OF IDENTIFICATION CARDS; SECURITY PRINTING, NAMELY, ENCODING IDENTIFICATION INFORMATION ON VALUABLE DOCUMENTS AND PRODUCTS

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 86000747

Filing Date July 2, 2013

Current Basis 1B

Original Filing Basis 1B

Published for September 17, 2013

Opposition

Owner (APPLICANT) UNITED STATES POSTAL SERVICE independent establishment of the executive branch of the government of the United States of America UNITED STATES 475 L'Enfant Plaza, SW Washington D.C. 202601136

Attorney of Record KAREN E. OWCZARSKI

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "DIGITAL" APART FROM THE MARK AS SHOWN

Type of Mark SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE

From:
Sai
usps@s.ai
+1 510 394 4724 phone
+1 206 203 2827 fax
PO Box 401159
San Francisco, CA 94110

To:
United States Postal Service:
a) Randy S. Miskanic, Vice President,
Secure Digital Solutions
b) Manager Records Office

Submitted via <https://pfoiapal.usps.com>

**Expedited FOIA Request for USPS documents related to
Private Address Forwarding and PRC docket MC2013-60**

October 18, 2013

On October 16, 2013, the USPS submitted a reply to PRC order 1838¹ in the pending PRC docket #MC2013-60 about my proposal for Private Address Forwarding.

The USPS' reply, and subsequent conversation with its attorney Michael Tidwell, indicated that the USPS has considered multiple similar proposals in the past dating back as far as 2001, "either as a discrete product concept or as part of a larger suite of potential services"², as well as "other concepts in [the USPS'] product development pipeline" including:

1. Patent #7,295,997, in which merchants generate "[l]abel information [e.g.] a random number ... to identify the customer [without] includ[ing] the customer's name or address information" and "the shipper may read ... the label to determine the customer's name and address, apply [a] new label that has the customer's name and address to the package, and ship the package to the customer ... [so that] the customer's information remains anonymous from the merchant."
2. Patent application 20120011068 ("Mail My Way"), in which "a 'virtual address' or 'vanity address' is arbitrary character data defined by a mail recipient that is other than a physical address or mailing address of the customer ... for use in lieu of their

¹ <http://prc.gov/Docs/88/88005/USPS.Reply.Ord.1838.pdf>

² all quotes are from the USPS reply to Order 1838, *supra*

... physical address"

3. Trademark application 8600747 ("Digital License Plate"), which concept includes "providing authentication of personal identification, secure storage of personal information, and encoding of identification information on valuable documents and products"

This letter is a formal FOIA request for all documents related to these and similar proposals (including Private Address Forwarding itself), including but not limited to:

1. investigations of "availability of technology, operational feasibility, associated costs, potential demand marketability, [and/or] policy implications" of such proposals
2. the "direction [and/or] prioritization of [] pre-decisional product development investigations" of such proposals
3. feasibility or technical standards for record storage systems for such proposals and/or for PO Box holder identities
4. "procedures in place that protect the identities and street addresses of individuals" and associated "records system"(s)
5. the "relative rankings of DLP" and other such proposals with respect to unrelated proposals contemplated by the USPS

To the extent that such documents are available in digital form (e.g. PDF, text, images, etc), please deliver them as such via email, FTP, or similar method. To the extent that the documents are only available in paper form, please send them either by scan and email, or by fax, as is most convenient.

If you believe that any of the requested documents are exempt from disclosure, please provide a list of what documents are within the requested class but exempt, together with an explanation of why they are exempt.

If you believe that any of the requested documents are insufficiently described, please fulfill the remainder of this request and contact me by email to resolve any insufficiency. If you

believe that any of the requested documents are already public, please point to where they may be found online.

I request fee waiver for this request. All responsive documents will be filed with the PRC docket (and thus published publicly), and directly benefits the public and the PRC in educating them on issues that the USPS has explicitly argued in its Reply to be directly relevant to the outcome of this proceeding. I expect to gain no commercial benefit whatsoever from this disclosure, nor from the proceeding itself.

If fee waiver is denied, I am willing to pay up to \$50 for processing of this request. While I may be willing to pay more, if it will cost more to complete, please contact me to explain the costs, and complete as much as can be done for \$50.

Because this request directly impacts an ongoing PRC proceeding and there is an urgency to inform the public regarding the USPS' activity in this proceeding due to the PRC's current reply comment deadline of 2013-11-13 (before which I and other stakeholders would need time to read and compose a response, based in part on any responsive documents), please process this request in an expedited manner.

Sincerely,
Sai

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001Request to Add Private Address Forwarding To the Market
Dominant Product List

Docket No. MC2013-60

PETITIONER'S MOTION FOR PRC ORDER
FOR DISCLOSURE OF RELATED USPS DOCUMENTS

October 18, 2013

On October 16, 2013, the USPS submitted a reply¹ to PRC order 1838 in the pending PRC docket #MC2013-60 about my proposal for Private Address Forwarding.

The USPS' reply, and subsequent conversation with its attorney Michael Tidwell, indicated that the USPS has considered multiple similar proposals in the past dating back as far as 2001, "either as a discrete product concept or as part of a larger suite of potential services"², as well as "other concepts in [the USPS'] product development pipeline" including:

1. Patent #7,295,997, in which merchants generate "[l]abel information [e.g.] a random number ... to identify the customer [without] includ[ing] the customer's name or address information" and "the shipper may read ... the label to determine the customer's name and address, apply [a] new label that has the customer's name and address to the package, and ship the package to the customer ... [so that] the customer's information remains anonymous from the merchant."
2. Patent application 20120011068 ("Mail My Way"), in which "a 'virtual address' or 'vanity address' is arbitrary character data defined by a mail recipient that is other than a physical address or mailing address of the customer ... for use in lieu of their ... physical address"

¹ <http://prc.gov/Docs/88/88005/USPS.Reply.Ord.1838.pdf>

² all quotes are from the USPS reply to Order 1838, *supra*

3. Trademark application 8600747 ("Digital License Plate"), which concept includes "providing authentication of personal identification, secure storage of personal information, and encoding of identification information on valuable documents and products"

The substance of the USPS' Reply was founded in very large part of the feasibility of my proposal. The USPS' significant history of having already deliberated the feasibility, priority, demand, etc., of what the USPS itself claims to be very similar proposals has a clear and immediate relevance to this proceeding. As such, such deliberations would be extremely informative for both the Commission and third party commenters (including myself) in independently evaluating the feasibility concerns the USPS has raised.

The USPS cannot in good faith argue simultaneously that the Commission should not act on this proposal without an evaluation of its feasibility, that it has already evaluated similar proposals, *and* that the Commission (and the public) should not take those previous evaluations into consideration.

Therefore, I respectfully request that the Commission order the USPS to publicly file to this docket all documents related to these and similar proposals (including Private Address Forwarding itself), including but not limited to:

1. investigations of "availability of technology, operational feasibility, associated costs, potential demand marketability, [and/or] policy implications" of such proposals
2. the "direction [and/or] prioritization of [] pre-decisional product development investigations" of such proposals
3. feasibility or technical standards for record storage systems for such proposals and/or for PO Box holder identities
4. "procedures in place that protect the identities and street addresses of individuals" and associated "records system"(s)

5. the "relative rankings of DLP" and other such proposals with respect to unrelated proposals contemplated by the USPS

Sincerely,
Sai
Petitioner

usps@s.ai
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San Francisco, CA 94110

P.S. Please note that I have today filed with the USPS an expedited FOIA request (2014-FPRO-00057³) for the same materials. I intend to file to this docket any responsive documents that are not furnished in response to an order based on this motion.

I have filed this motion separately, because the Commission's authority to require information from the USPS relevant to the PRC's regulatory proceedings is significantly stronger than the rights granted to the general public by the FOIA within the limitations of 39 U.S.C. 410(c)⁴.

³ <http://s.ai/paf/2013-10-18%20FOIA%20request%20for%20documents%20related%20to%20PAF.pdf>

⁴ <http://www.law.cornell.edu/uscode/text/39/410>

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

REQUEST TO ADD PRIVATE ADDRESS FORWARDING TO THE MARKET DOMINANT PRODUCT LIST

Docket No. MC2013-60

**REPLY OF THE UNITED STATES POSTAL SERVICE
TO MOTION OF PETITIONER SEEKING ORDER AUTHORIZING DISCOVERY**
(October 28, 2013)

The United States Postal Service hereby submits its reply to Petitioner's Motion for Disclosure of Related USPS Documents (October 21, 2013).¹ For the reasons explained below, the motion should be denied.

On October 23, 2013, under the terms of Order No. 1858, the Commission modified the procedural schedule in this docket by extending the original October 16, 2013 deadline for filing initial comments to November 18, 2013; and by extending the original November 13, 2013 deadline for filing reply comments to December 20, 2013.

Sometime after December 20th, the Commission will assess whether the proposed modification to the Mail Classification Schedule is consistent with the position of the Postal Service, and then determine which procedural option in 39 C.F.R. § 3020.55(b) to exercise, including rejection of the Petitioner's Request. In considering its options under Rule 55(b), the Commission must assess, *inter alia*, the limits of its role under section 3642 to add new products to the Mail Classification Schedule (MCS) in light of the grant of primary authority in section 403(a) to postal management in the planning and development of postal services to offer to the public. In doing so, the

¹ Hereinafter, Petitioner's Motion for Discovery. The motion is dated October 18, 2013, but bears an October 21, 2013 filing date stamp.

Commission should take care not to impose upon the Postal Service any obligation to plan or develop any product or service currently not in existence, especially if it has not concluded that the absence of that product from the MCS contravenes a requirement or policy of Title 39 United States Code.²

Petitioner's Motion for Discovery asks the Commission to immediately institute proceedings to consider the merits of his Private Address Forwarding classification proposal under Rule 55(c) by ordering discovery under Rule 55(d). In support of his motion, Petitioner makes several assertions that compel a rejoinder.

For instance, Petitioner alludes to the Comments of the United States Postal Service in Response to Notice and Order Concerning Request to Add Private Address Forwarding to the Market Dominant Product List (October 16, 2013) and argues that:

The substance of the USPS' Reply was founded in very large part of [sic] the feasibility of my proposal. The USPS' significant history of having already deliberated the feasibility, priority, demand, etc., . . . [of the Private Address Forwarding concept] has clear and immediate relevance to this proceeding.

Petitioner's Motion for Discovery at 2. Petitioner appears to have misread the USPS Reply to Order No. 1858. At pages 2-4 of that Reply, the Postal Service reveals that product concepts similar to Private Address Forwarding (PAF) have been conceived internally, and that all product concepts compete for internal financial, analytical and developmental resources and consideration by postal management. From there, it appears that Petitioner has jumped to the conclusion that the Postal Service has analyzed, deliberated and/or determined the operational feasibility, cost and market demand for a PAF-like product.

² The Postal Service distinguishes such circumstances from one in which a basis exists for the Commission to conclude that the Mail Classification Schedule should be modified to correct for undue or unreasonable discrimination or preference, within the meaning of 403(c).

So that the Commission is clear, the Postal Service takes this opportunity to reiterate that forms of the Private Address Forwarding product concept, like many others over the years, have been conceived by and subjected to varying degrees of brainstorming among headquarters personnel. However, to-date, no determination has been made to commit capital and/or personnel resources to a cross-functional feasibility analysis that might lead to a decision to further explore developing any PAF-like concept into a product.

At page 2-7 of its October 16th Reply to Order No. 1858, the Postal Service summarily identifies some of the issues that would likely be examined as part of a serious product feasibility review.³ In doing so, the Reply acknowledges at pages 2-3 what is already a matter of public record, that the Postal Service has taken action to protect its intellectual property rights in similar, internally generated product concepts. The patent referenced at pages 2-3 of the Reply proves that a similar product concept is more than a decade old. The *Digital License Plate* concept discussed in fn. 5 of the Reply is evidence that a form of the concept is presently under consideration.

It appears from Petitioner's Motion for Discovery that these revelations have given rise to *hope* that the Digital License Plate concept may have achieved elevated status in the competition for scarce financial, analytical and developmental resources at postal headquarters. However, when read objectively, the October 16th Reply offers no basis for concluding that the concept has gained any such traction internally.

Conceptual brainstorming should not be mistaken for cross-functional review that seeks to resolve operational feasibility, customer demand, information security or privacy

³ To avoid any further misinterpretation, it should be understood that this summary of issues was not generated in connection with any actual feasibility review, but solely for purposes of the October 16th Reply to Order No. 1858.

concerns. Petitioner's assertions at page 2 of his discovery motion that the Postal Service has "already deliberated" the matters he lists or that it "has already evaluated similar proposals" as the result of internal cross-functional feasibility review appear to be the product of an overly enthusiastic reading of the Postal Service's October 16th Reply.

At pages 2-3 of his Motion for Discovery, Petitioner provides a list of five enumerated discovery requests. In the Post Script on page 3 of his Motion, Petitioner acknowledges that they also have been submitted to the Postal Service in the form of a request for records under the Freedom of Information Act, 5 U.S.C. § 552. In light of the very preliminary posture of this docket, considerations of judicial economy should compel the Commission to decline to permit discovery until such time as a threshold determination is made under Rule 55, and the Commission has decided whether there will be further proceedings in which formal discovery might serve some purpose in its resolution of Petitioner's Request. Accordingly, Petitioner's motion seeking to initiate discovery should be denied.

In the meantime, Petitioner is free to pursue his request for access to records under the terms of the Freedom of Information Act.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

Daniel J. Foucheaux, Jr.
Chief Counsel, Pricing & Product Support

Michael T. Tidwell

475 L'Enfant Plaza, S.W.
Washington, D.C. 20260-1137
(202) 268-2998, Fax -5402
October 28, 2013

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001Request to Add Private Address Forwarding To the Market
Dominant Product List

Docket No. MC2013-60

PETITIONER'S RESPONSE TO USPS' OPPOSITION TO DISCOVERY

October 28, 2013

Earlier today, the USPS filed an opposition¹ to my motion for an order seeking disclosure of documents related to this proceeding². The USPS raised essentially two substantive points that I believe compel my response.

1. Whether the USPS has documents that are relevant to this proceeding

The USPS' opposition (page 2) says that "Petitioner appears to have misread the USPS ... [T]he Postal Service reveals that product concepts similar to Private Address Forwarding (PAF) have been conceived internally, and that all product concepts compete for internal financial, analytical and developmental resources and consideration by postal management. From there, it appears that Petitioner has jumped to the conclusion that the Postal Service has analyzed, deliberated and/or determined the operational feasibility, cost and market demand for a PAF-like product."

Particularly salient is the immediately following quote (page 3): "the Private Address Forwarding product concept, like many others over the years, have been conceived by and subjected to varying degrees of brainstorming among headquarters personnel" but that "no determination has been made".

¹ <http://prc.gov/Docs/88/88134/USPS.Opp.2.Discovery.pdf>

² <http://prc.gov/Docs/88/88066/sai-paf-motion-for-disclosure-order.pdf>

The USPS' opposition is incorrect in its interpretation of my belief, and simply beside the point. I have not requested that the USPS produce any final determinations about PAF-like proposals; they have explicitly stated that they have not made any, and I have not questioned that. Nor have I requested in this motion that the USPS be ordered to conduct any new review, determination, plan, development, or the like.

The USPS' statement that "the October 16th Reply offers no basis for concluding that the concept has gained any such traction internally" is not an explicit denial, and in any case the degree of internal traction irrelevant to my motion for discovery. I have no particular belief about whether such ideas have "achieved elevated status in the competition for scarce financial, analytical and developmental resources at postal headquarters". Nor do I contest that the USPS' resources are limited and there is competition for those resources.

The USPS has, to quote the USPS' opposition and initial comments, "brainstormed", "circulated", "presented to postal managers and analysts", and made "presently under consideration", multiple similar concepts in the past decade. All of these actions have surely produced documents which are relevant to this proceeding.

The USPS has successfully obtained one patent, applied for another, and registered a trademark, again for what it agrees are substantially similar ideas. Such actions are not ones that any entity undertakes without a significant degree of analysis both before and during the application process about the substantive issues relating to those ideas — analysis will have produced documents relevant to this proceeding.

The USPS' opposition **does not deny** that it has documents that are relevant to this proceeding and to commenters' and the PRC's ability to *independently* evaluate the concerns raised in the USPS' reply³. Whether such documents have reached a level of internal finality or a formal "internal cross-functional feasibility review" is irrelevant.

What I have requested is simple: that whatever USPS documents that *currently* exist;

³ <http://prc.gov/Docs/88/88005/USPS.Reply.Ord.1838.pdf>

pertain to related proposals; and may be relevant to determinations as to whether my proposal meets the criteria expressed in 39 USC §§ 3642(b), 3622(b, c), 3691(b,c), and 3641(b); should be publicly disclosed, well before the deadline for reply comments. Without such disclosure, the public and the PRC would be crippled in *independently* assessing the those statutory criteria and the concerns raised in the USPS' initial reply.

2. Whether this motion for production of documents is procedurally appropriate, and the PRC's authority under 39 USC 3642 and in light of 39 USC 403(a)

The USPS' opposition characterizes my motion as "ask[ing] the Commission to immediately institute proceedings to consider the merits" under 39 CFR 3020.55 or 3020.56. I have not done so; as the USPS has noted, such a proceeding will come only after the final date for reply comments.

Pertinent discovery regulations are 3001.27(a) (permitting discovery of documents relevant to a PRC proceeding), 3005.11(a) (authorizing "the Chairman [and] any designated Commissioner" to issue subpoenas to the USPS for "the production of documentary or other evidence with respect to any proceeding" [11(c)]), and 3005.13 (authorizing subpoenas in response to third party request "in any proceeding").⁴

I have requested only that the USPS produce documents that exist and are directly relevant to this proceeding because they deal with substantially similar products and various considerations that the USPS has already discussed about those products, which considerations it raised in its initial comments responding to my request.

The USPS' opposition (and initial reply) argues that a request under 3020.50 should not be granted without determination of its feasibility. I completely agree that the PRC should not approve a proposal without properly considering the criteria expressed in 39 USC §§ 3642(b), 3622(b, c), 3691(b,c), and 3641(b).

⁴ The fact that I have filed a FOIA request for the same documents is irrelevant to whether a PRC order for production of USPS documents is merited here.

However, the USPS further argues, in essence, that it is the USPS rather than the PRC whose duty it is to make such determinations; that the USPS may *unilaterally* refuse to comply with efforts to make such determinations; that the PRC shouldn't "interfere with the process of determining new product concepts" or "compel postal management to justify its current priorities"; that the PRC shouldn't "require negotiations" with a requester or direct the USPS to "expend resources" for "**any** ... proposed product", etc.

This directly contradicts the clear wording of 39 USC § 3642(a, b), which specify that the PRC makes all such changes and determinations, and the USPS' role is to *propose* such changes (with, presumably, good evidence based on internal review for why such changes are justified). 39 USC § 403(a) says that "[t]he Postal Service shall plan, develop, promote, and provide adequate and efficient postal services". It does not say that the USPS has the sole authority to *decide* which services to plan or develop, only that they have the duty to do so when appropriate, nor does it contradict that it is the PRC's *exclusive* role to decide what changes to products lists to adopt and to determine whether proposals meet the relevant criteria.

§3642(a), which postdates §403(a) and thus should be read as controlling any ambiguity in the latter (especially given Congress' clear intent in enacting the PAEA to make the USPS "*accountable*"), clearly contemplates that both "users of the mails" and the PRC itself may propose "*new products*", which the PRC decides whether to accept.

§3642 does not distinguish, as the USPS implies, between a proposal for a *new* product and a *change* to an existing product; both are subject to exactly the same §3642(b) criteria (and determination by the PRC). In determining these criteria, the PRC has a clearly implied power as the USPS' regulatory agency (explicitly reiterated in 39 CFR 3005) to require production of USPS documents that are relevant to its proceedings.

The USPS has twice brought up that my proposal is not based on a violation of Title 39. I agree, and I have at no point alleged any such violation; this argument is a red herring. This proceeding is not a complaint under of undue or reasonable discrimination based on 39 USC §§ 101(d), 403(c), 404(b), or 3622(b)(8). §3642 in no way requires such a complaint,

nor does it require or even imply that a proposal should only be fully considered in order to remedy a violation of Title 39.

Accepting the USPS' arguments about the balance of authority in 39 USC §§ 3642 and 403, or permitting the USPS to withhold documents relevant to proceedings under §3642, would nullify the effect of Congress' intent in passing the PAEA modifying 39 USC § 3642 to permit "users of the mails" to request "adding new products" to the lists.

I urge the Commission to carefully consider how the Congressional mandate expressed by the PAEA giving the PRC extensive regulatory oversight of the USPS — and giving ordinary users of the mail the ability to propose new products — would be effectively gutted if it were to accept the USPS' arguments.

Accordingly, I respectfully reiterate my request that the Commission to grant my motion to compel the USPS to produce documents relevant to this proceeding.

I would also like to reiterate that it is my **strongly** preferred desire to work **in cooperation** with the USPS on this matter. However, when the USPS does not act in good faith to further such cooperation, or when it argues to *de facto* nullify the effect of an Act intended to further postal accountability and the participation of the general public, I have no choice but to oppose the USPS' stance on this matter.

Sincerely,
Sai
Petitioner

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PO Box 401159
San Francisco, CA 94110

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Robert G. Taub, Vice Chairman;
Mark Acton; and
Nanci E. Langley

Request to Add Private Address Forwarding
to the Market Dominant Product List

Docket No. MC2013-60

ORDER DENYING MOTION FOR DISCLOSURE

(Issued November 5, 2013)

I. INTRODUCTION

On September 18, 2013, Petitioner Sai (Petitioner) filed a request with the Commission, asking that it add a proposed product, Private Address Forwarding (PAF), to the Mail Classification Schedule (MCS) as a market dominant special service.¹

On October 16, 2013, the Postal Service submitted its comments on the proposal.² In its Comments, the Postal Service contends that the Commission should reject the proposal to amend the MCS. Comments at 1. It states that the underlying concept behind the proposal has been independently under consideration by the Postal

¹ Request to the Postal Regulatory Commission under 39 U.S.C. 3642 and 39 C.F.R. 3020.50 to add Private Address Forwarding to the Mail Classification Schedule, September 18, 2013 (Request).

² Comments of the United States Postal Service in Response to Notice and Order Concerning Request to Add Private Address Forwarding to the Market Dominant Product List, October 16, 2013 (Comments)

Docket No. MC2013-60

- 2 -

Service. *Id.* at 2. The Postal Service points to three intellectual properties that it owns: (1) a patent that it filed in 2001 (U.S. Patent No.; 7,295,997), (2) a patent application for “Mail My Way,” and (3) a trademark application for “Digital License Plate.” *Id.* at 2-3. It asserts that there is common ground between Petitioner’s proposal and the concepts contained within the Postal Service’s intellectual property. *Id.* at 3.

II. MOTION FOR ORDER FOR DISCLOSURE

On October 21, 2013, Petitioner filed a motion asking the Commission to order the Postal Service to produce all documents relating to proposals similar to his PAF proposal.³ Specifically, Petitioner asks that the Postal Service be ordered to produce:

1. investigations of the ‘availability of technology, operational feasibility, associated costs, potential demand marketability, [and/or] policy implications’ of such proposals;
2. the ‘direction and/or prioritization of pre-decisional product development investigations’ of such proposals;
3. feasibility or technical standards for record storage systems for such proposals and/or for Post Office Box holder identities;
4. ‘procedures in place that protect the identities and street addresses of individuals’ and associated ‘records systems’;
- and 5. the ‘relative rankings of DLP’ and other such proposals with respect to unrelated proposals contemplated by the USPS.

Motion at 2-3.⁴ Petitioner contends that Postal Service’s deliberations on proposals similar to his PAF proposal are relevant to the present proceedings and will be informative for both the Commission and third parties. *Id.* at 2.

³ Petitioner’s Motion for PRC Order for Disclosure of Related USPS Documents, October 21, 2013, at 2 (Motion).

⁴ Petitioner also states that he has filed a request with the Postal Service, pursuant to the Freedom of Information Act, for the same records he seeks in these proceedings. *Id.* at 3.

Docket No. MC2013-60

- 3 -

The Postal Service filed an answer opposing the Motion on October 28, 2013.⁵ Reply at 4. It contends that considerations of judicial economy should compel the Commission to decline to permit discovery until it has made the determination that there will be further proceedings on this docket. *Id.* (citing 39 C.F.R. § 3020.55).

On October 28, 2013, Petitioner filed a response to the Postal Service's Reply.⁶ Petitioner states that he is seeking existing records that pertain to proposals related to PAF and which may be relevant to a determination as to whether his proposal complies with the statutory criteria, as expressed in 39 U.S.C. §§ 3642(b), 3622(b,c), 3691(b,c), and 3641(b). Response at 3-4. Petitioner contends that such documents should be publicly disclosed "well before the deadline for reply comments" so that the public and the Commission can independently assess those statutory criteria and concerns that the Postal Service raises in its Comments. *Id.* at 4. He states that the Commission has the implied power to order document production when it determines whether to accept a proposal pursuant to section 3642(a). *Id.*

III. COMMISSION ANALYSIS

Section 3642(a) provides a means whereby the Commission may, upon the request of a user of the mails, add new products to product lists in the MCS. The Commission's rules require that it review such requests, the Postal Service's reply, and any public comment to determine whether the proposal complies with applicable statutory requirements and the Commission's rules, and whether the proposal is consistent with the position of the Postal Service. 39 C.F.R. § 3020.55. The Commission may approve the request, reject it, institute further proceedings, or direct other action. *Id.* In the event that the Commission institutes further proceedings, it is required to schedule a merits conference, and on conclusion of the conference, issue a ruling that provides for a period of discovery, schedules a hearing on the record,

⁵ Reply of the United States Postal Service to Motion of Petitioner Seeking Order Authorizing Discovery, October 28, 2013 (Reply).

⁶ Petitioner's Response to USPS' Opposition to Discovery, October 28, 2013 (Response).

Docket No. MC2013-60

- 4 -

explains the reasons for not going forward with formal proceedings, or directs other action. 39 C.F.R. § 3020.56.

The Commission's rules do not provide for discovery prior to determining whether the proposal complies with statutory and regulatory requirements and is consistent with the position of the Postal Service. However, the rules do allow for a period of discovery following that determination. By creating a two-step process, the rules permit the Commission to first make an initial determination on the proposal before taking further action if deemed appropriate. Under these procedures, the Commission acts as a gatekeeper, making an initial determination on the proposal based on the parties' filings before finding, if appropriate, a need for further action, *e.g.*, permitting discovery.

Accordingly, the Motion is denied as premature.

It is ordered:

Petitioner's Motion for PRC Order for Disclosure of Related USPS Documents, filed October 21, 2013, is denied.

By the Commission.

Shoshana M. Grove
Secretary

RECORDS OFFICE



November 6, 2013

Sai
PO Box 401159
San Francisco, CA 94110

RE: FOIA Case No. 2014-FPRO-00057

Dear Postal Customer:

This responds to your Freedom of Information Act (FOIA) requests, dated October 18, 2013 for access to Postal Service records.

We consider that you are within the category of "other requesters" as defined by Postal Service FOIA fee regulations. This category applies to requesters who are not commercial use requesters, educational or scientific requesters, or news media requesters.

Regarding fees under the FOIA, fair and equitable fees are established to permit the furnishing of records to the public, while recovering costs incurred by the Postal Service. The cost is calculated in accordance with our fee regulations at section 265.9 of Title 39, Code of Federal Regulations, which permit us to charge requests of "other requesters" search time at the rate of \$32.00 per hour and 15 cents per page for duplication, after providing the first two hours of search time and the first 100 pages at no charge. In addition, our regulations require that requesters be notified in advance of all costs expected to exceed \$25.00 if they have not indicated their willingness to accept costs that may be incurred in processing their request.

The cost to process your request is estimated to be a *minimum* of \$832.00 for search time (28 hours at a cost of \$32.00 per hour minus 2 hours). In addition to that cost, 15 cents per page will be assessed for duplication (the first 100 pages are provided at no charge). There may be additional charges depending on actual services provided in the processing of this request.

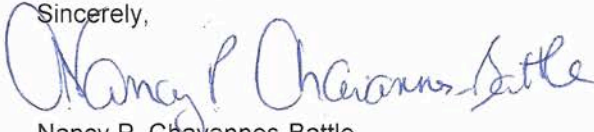
Because the cost of processing your request will exceed \$250.00, we will require at least 50 percent advance payment with your written agreement to accept any assessable costs incurred. Please submit your check or money order in the amount of \$416.00 made payable to the "U. S. Postal Service." We must caution you that you are liable for the fee even if certain portions of the requested records are withheld in accordance with our regulations. Upon receipt of your deposit and written agreement to accept costs, we will proceed with processing your request and provide an estimate of the time frame for our response.

As an alternative, which could be less expensive, and could produce documents more timely to you, we suggest you consider narrowing the scope of your request. If you need assistance in reformulating your request, you may contact me at (202) 268-2030.

475 L'ENFANT PLAZA SW, RM.9431
WASHINGTON DC 20260-1101
(202)268-2608
FAX: (202)268-5353

We look forward to hearing from you as to how to proceed with your request. If we do not hear back from you within 14 calendar days of this letter, we will assume you do not wish to incur costs to process your request, and we will close out this request.

Sincerely,



Nancy P. Chavannes-Battle
Consumer Research Analyst



Sai . <saizai@gmail.com>

RE: FOIA Case 2014-FPRO-0057

Sai <usps@s.ai>

Sat, Nov 23, 2013 at 12:37 PM

To: nancy.p.chavannesbattle@usps.gov

Cc: david.c.belt@usps.gov, "WACLAWSKI, JAMES X" <james.waclawski@prc.gov>

` Dear Ms. Chavannes-Battle -

On November 19th, I left you a voicemail message, as requested in your letter, regarding your response to my FOIA request (see both attached), explaining that:

1. you failed to respond to my public interest fee waiver request; and
2. you failed to respond to, or to respect, my request for electronic format (not paper) documents, e-mail response, and minimum cost (i.e. electronic) duplication.

These failures violate Federal law. See (among others):

5 U.S.C. § 552(a)(4)(A)(iii) & 39 CFR 265.9(g)(3) - shall determine public interest exemption before claiming fees

5 U.S.C. § 552(a)(3)(B), 39 CFR 265.9(h)(3) - shall provide in format requested if available and shall charge no more than actual costs (n.b. there is no such thing as a "per page" actual cost to transmit electronic documents)

OMB Fee Guidelines, 52 Fed. Reg. at 10,018 - least cost possible

I also asked you to explain how my request could be narrowed by category, such that the costs might be reduced, as your letter did not explain its basis for calculating 28 hours of "search time", nor how that time might be reduced while fulfilling as much of my request as possible.

I have not received any response whatsoever to my voicemail, so I am following up by e-mail.

Please note that because there has been no "determination" within the 20-day statutory requirement, I am under no obligation to make any administrative appeal, and have the right to *immediately* file suit in the DC Circuit Court. See e.g. CREW v. FEC, DC Court of Appeals 12-5004 - http://www.fec.gov/law/litigation/crew_ac_order.pdf.

If I do not receive an adequate explanation and response regarding all three of the above issues, by e-mail, by December 5th, 11 pm Eastern time, I will have to assume that the USPS is intentionally refusing to obey the FOIA's requirements, and will have no choice but to

- a) file suit for declaratory, injunctive, and cost recovery relief, and

b) file copies of my request, your response, and my civil complaint in PRC proceeding MC2013-60, as evidence of bad faith and as evidence that the USPS is deliberately withholding evidence that would benefit my argument (per the absent witness rule, 29 Am. Jur. 2d Evidence § 257), consistent with its entire pattern of response in that proceeding to date.

I am sending this email as a courtesy and good faith attempt to resolve the matter without litigation, and to give you a more than adequate time to respond (even though I am under no obligation to extend any further time).

I hope that the USPS' failures in this matter were a genuine mistake, and that you are willing to comply voluntarily with the requirements of the FOIA and 39 CFR 265.

I look forward to receiving your prompt response, *by e-mail*, before December 5th, 11pm Eastern.

Sincerely,
Sai

/cc David C. Belt, Office of the General Counsel, USPS
/cc Jim Waclawski, Public Representative on MC2013-60, Postal
Regulatory Commission

2 attachments



2013-10-18 FOIA request for documents related to PAF.pdf

118K



2013-11-06 USPS response re MC2013-60 FOIA request.pdf

2397K

RECORDS OFFICE



November 25, 2013

Sai
PO Box 401159
San Francisco, CA 94110

RE: FOIA Case No. 2014-FPRO-00057

Dear Postal Customer:

This responds to your November 18, 2013 telephone call to our office and subsequent email on November 23, 2013 regarding the fee estimate you received in response to your Freedom of Information Act (FOIA) request, dated October 18, 2013. You requested records pertaining to five listed items in connection with private address forwarding and PRC docket MC2013-60.

In your email you state that your fee waiver request was not responded to and that your request for electronic format (not paper) documents was not addressed. It is noted that in your initial request you ask for expedited processing. We apologize for the oversight in not addressing these matters in the fee estimate letter dated November 6, 2013.

In order to be granted expedited processing of a FOIA request, you must provide information in sufficient detail to demonstrate compelling need for the records and certify this statement to be true and correct to the best of your knowledge and belief.

Compelling need exists if either of the following applies: 1) failure of the requester to obtain the records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual, or 2) in the case of a request made by a person primarily engaged in disseminating information, there is an urgency to inform the public concerning actual or alleged federal government activity. We do not feel that you have demonstrated how either of these situations applies to your request. Accordingly, your request for expedited processing has been denied. Your request will be processed based in the order in which it was received, or in other words, on a first-in, first-out basis.

In response to your request for a waiver of fees, we decline your request for a fee waiver. You state in your letter that you will make the responsive records available to the public in connection with PRC docket MC2013-60.

Postal regulations governing the waiver of fees (section 265.9(g) (3) of Title 39, Code of Federal Regulations) permit waiver of a fee when it is determined that furnishing the records is deemed to be in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the federal government and is not primarily in the commercial interest of the requester.

475 L'ENFANT PLAZA SW, RM.9431
WASHINGTON DC 20260-1101
(202)268-2608
FAX: (202)268-5353

The waiver request must describe the following: how the information will be used; to whom it will be provided, including the public; how the public is to benefit from the disclosure; any personal or commercial benefit that the requester expects from disclosure; and the intended user's identity, qualifications, and expertise in the subject area (see Section 4-2.3, AS353 Handbook).

Your fee waiver request did not include all of the required information. In particular, you have not demonstrated your qualifications and expertise in the subject area, or the ability and intention to disseminate the information to the public. Requesters who make no showing of how the information would be disseminated, other than through passively making it available on a website, do not meet the burden of demonstrating with particularity that the information will be communicated to the public.

With respect to the estimated cost for processing your request, we note that you did not limit the search for records to a particular department or office. Based on the subject matter of your request, we conducted preliminary searches for records at Postal Service Headquarters. This preliminary search found that responsive records may exist within two Headquarters departments - Product Information and the Office of the General Counsel. The fee estimate is for the time it will take to search for responsive records within these two departments (one hour by Product Information and 27 hours by the Office of the General Counsel). As an alternative, which could be less expensive, and could produce documents more timely to you, you could limit the search of documents to a particular department or to a specific report or document type.

With respect to duplication fees, provided you are willing to pay for the search fees, we are unable to estimate the duplication fees that may be incurred in processing your request until the search for records has been completed. As stated in my prior letter, the cost for hard copy duplication is at the rate of 15 cents per page after the first 100 pages which are provided at no charge. We understand that you have asked to be provided copies of responsive records in electronic format. We will comply with your request to be provided records in electronic format if able to do so.

We look forward to hearing from you as to how to proceed with your request. If we do not hear back from you within 14 calendar days of this letter, we will assume you do not wish to incur costs to process your request, and we will close out this request.

You have the right to appeal the denial of your request for expedited processing and your fee waiver request by writing to the General Counsel, U.S. Postal Service, Washington, D.C. 20260-1100, within 30 days of the date of this letter. The letter of appeal should include statements concerning this response, the reasons why it is believed to be erroneous, and the relief sought, along with copies of the original request letter, this letter, and any other related correspondence.

If you need assistance in reformulating your request, you may contact me at (202) 268-2030.

Sincerely,

Nancy P. Chavannes-Battle

Nancy P. Chavannes-Battle
Consumer Research Analyst



Sai . <saizai@gmail.com>

RE: FOIA Case 2014-FPRO-0057

Sai <usps@s.ai>

Mon, Nov 25, 2013 at 7:31 PM

To: "Chavannes-Battle, Nancy" <nancy.p.chavannesbattle@usps.gov>, ": Belt, David C - Washington, DC" <David.C.Belt@usps.gov>

Cc: "WACLAWSKI, JAMES X" <james.waclawski@prc.gov>

Dear Ms. Chevannes-Battle & Mr. Belt:

Thank you for your response to my FOIA request for expedited processing, public interest fee waiver, digital format records, and an explanation of how search might be tailored.

1. Expedited processing

a) There is urgency, given that the records I have requested directly relate to an ongoing Postal Regulatory Commission proceeding, to which response comments are due on December 20th. The records are urgently necessary to inform the public about actual federal government activity, without which it is difficult or impossible to comment on PRC proceeding MC2013-60 on an informed basis.

b) I am primarily engaged in disseminating information, through multiple means, including blogging, PRC and other agency filings, speaking at conferences (including the World Forum for Democracy at the Counsel of Europe which I am currently attending as an invited discussant), etc. The Supreme Court has determined that bloggers have the same rights as any other journalists, and I claim that right.

With respect to this FOIA, it is prima facie evidence of public dissemination that the results will be filed on the PRC record.

2. Fee waiver for public interest

a) As I said in my original request, the information will be used to inform the public and the Postal Regulatory Commission about ongoing proceeding MC2013-60. The public and PRC will benefit from the disclosure by better understanding the USPS' previous work in this area, which is critical to being able to make an informed decision or comment on MC2013-60.

"The public" here includes Mr. Waclawski, Public Representative of the PRC for MC2013-60, who is copied on this email and will be given a copy of all responsive records.

Again as above and in my original request, it will be published in the

PRC docket for MC2013-60 (in addition to my website), which is *prima facie* evidence of public dissemination.

b) As I said in the original request, I do not expect to gain any personal or commercial benefit.

c) I have already given my identity in my original request letter.

I am the proponent of MC2013-60, and therefore am *definitionally* qualified on this subject, as it is my own invention (albeit one that is similar to inventions made in parallel by the USPS).

I have many years of experience in security, web development, privacy, and other technology, which is directly relevant to my MC2013-60 proposal. See <http://s.ai/work> for my professional background.

3. Partial fulfillment

To the extent that you can fulfill my request with a shorter search within the Product Information division, I request that you do so — while completely reserving my right to fee waiver and to search of other records, including those of the Office of the General Counsel.

4. Appeal

To the extent that Ms. Chevannes-Battle's letter (attached) constitutes an (untimely) adverse determination by the USPS on any point of my FOIA, I hereby appeal it to the USPS General Counsel's office, whose representative Mr. Belt I have copied on this email.

I note however that because, as admitted in the second letter, you did *not* make a timely determination on any of the above issues, I "appeal" only out of politeness, not legal obligation, and do not waive any of my rights by doing so.




I have already fulfilled my duty to exhaust administrative remedies, am not legally required to make any administrative appeal, and reserve my already existing right to directly sue the USPS in the DC District Court regardless of the USPS General Counsel's response or lack thereof.

All of the points 1-3 above were included in my original request. As such, there was no basis whatsoever for failing to make a timely determination on any of the issues mentioned in this email. I note also that the determination of expedited processing is subject to a 10 day response requirement, and the FOIA in general to a 20 day response requirement, neither of which were met.

Again, I request that response be by e-mail.

Sincerely,
- Sai

3 attachments

-  **2013-10-18 FOIA request for documents related to PAF.pdf**
118K
-  **2013-11-06 USPS response re MC2013-60 FOIA request.pdf**
2397K
-  **2013-11-25 FOIA 2014-FPRO-0057 fee estimate letter 2.pdf**
90K

RECORDS OFFICE



November 27, 2013

Sai
PO Box 401159
San Francisco, CA 94110

RE: FOIA Case No. 2014-FPRO-00057

Dear Mr. Sai:

This is in reference to your communication, dated November 25, 2013 regarding your Freedom of Information Act (FOIA) request - FOIA Case No. 2014-FPRO-00057.

We interpret your email letter as a modification of your FOIA request. Specifically, you have asked that we limit the search for responsive records to the Product Information department. I have referred your request to that office and asked that they conduct a search for responsive records. We will be in further contact with you once the search for records has been completed.

We have referred your FOIA appeal concerning the denial of your request for expedited processing and fee waiver request to the Office for General Counsel for attention and direct response to you.

Sincerely,

Nancy P. Chavannes-Battle

Nancy P. Chavannes-Battle
Consumer Research Analyst

LEGAL STRATEGY

*CERTIFIED MAIL – RETURN RECEIPT REQUESTED*

December 12, 2013

Sai
P.O. Box 401159
San Francisco, CA 94110-1159

Re: Freedom of Information Act Appeal No. 14-023
FOIA Case No. 2014-FPRO-00057

Dear Sai:

This responds to your November 25, 2013, email message that was directed to the Postal Service Records Office and David Belt of the General Counsel's Office.¹ We interpret your message as an appeal of the Records Office's determination, regarding the above referenced Freedom of Information Act (FOIA) request, to deny your requests for expedited processing and a fee waiver.

Expedited Processing

Section 265.7(g)(1) of 39 Code of Federal Regulations sets out the applicable criteria for the agency's consideration of a request for expedited processing. Specifically, it states that the Postal Service shall grant a request for expedited processing "when the requester demonstrates compelling need." The regulation provides that "compelling need" exists if:

- (1) Failure of the requester to obtain the requested records on an expedited basis "could reasonably be expected to pose an imminent threat to the life or physical safety of an individual"; or
- (2) There is "an urgency to inform the public concerning actual or alleged federal government activity" in instances where the requester is "primarily engaged in disseminating information."

Moreover, Section 265.7(g)(2) provides that the requester must "provide information in sufficient detail to demonstrate compelling need" and certify the statement "to be

¹ In the future, please direct any electronic correspondence regarding FOIA appeals to Mr. Derrick L. Myers (Derrick.L.Myers@usps.gov) of Federal Requirements, the section of the General Counsel's Office that is responsible for considering all administrative FOIA appeals.

true and correct to the best of the requester's knowledge and belief."

After careful review and consideration of your appeal, this Office has concluded that you have failed to provide sufficient information to demonstrate the requisite "compelling need" to warrant the granting of your request for expedited processing. Accordingly, this Office is upholding the decision of the Records Office in this matter.

Fee Waiver

Under the FOIA, the Postal Service may charge fees for costs associated with processing a FOIA request. The fees are calculated in accordance with regulations set out in 39 C.F.R. § 265.9. The requester is responsible for the payment of all fees related to processing the request. Postal Service regulations direct that "the most efficient and least costly method[]" shall be used "when complying with requests for records." 39 C.F.R. § 265.9(a).

As noted in the Records Office's November 25, 2013, response to you, a "public interest" fee waiver is appropriate where the disclosure of requested records is likely to significantly contribute to the public understanding of the operations or activities of the Postal Service, and release of the records is not primarily in the commercial interest of the requester. See 5 U.S.C. §552(a)(4)(A)(iii); 39 C.F.R. § 265.9(g)(3). Fee waivers are not proper where the requester seeks information to further a private interest. See Carney v. U.S. Dep't of Justice, 19 F.3d 807, 816 (2d Cir. 1994); McClain v. U.S. Dep't of Justice, 13 F.3d 220, 221 (7th Cir. 1993).

To determine whether disclosure of the requested information is in the public interest, this Office considers the following factors: (1) the relation of the records to the operations or activities of the Postal Service; (2) the informative value of the information to be disclosed; (3) any contribution to an understanding of the subject by the general public likely to result from disclosure; (4) the significance of that contribution to the public understanding of the subject; (5) the nature of the requester's personal interest, if any, in the requested disclosure; and (6) whether the disclosure would primarily be in the requester's commercial interest. See 39 C.F.R. § 265.9(g)(3)(i)-(vi). See also, Section 4-6.3, AS-353 Handbook, "Guide to Privacy, the Freedom of Information Act, and Records Management."

Requests for a fee waiver must: (1) be made with "reasonable specificity," Prison Legal News v. Lappin, 436 F.Supp.2d 17, 26 (D.D.C. 2006); (2) be considered on a case-by-case basis; and (3) should address both of the waiver requirements in sufficient detail for the agency to make an informed decision as to whether it can appropriately waive or reduce the fees in question. Media Access Project v. FCC, 883 F.2d 1063, 1065 (D.C. Cir. 1989). The requester bears the burden of establishing that he or she is entitled to a fee waiver. Friends of the Coast Fork v. U.S. Dept. of Interior, 110 F.3d 53, 55 (9th Cir. 1997); In Def. of Animals v. NIH, 543 F.Supp.2d 83, 108 (D.D.C. 2008).

In the instant case, this Office has not been presented with sufficient evidence demonstrating that the release of the particular records you have requested would serve the public interest. Based on the statements you have submitted, it appears that the

requested records would primarily be used within the limited context of an administrative hearing in which you have an interest. Accordingly, there is no basis to warrant a fee waiver. See Brunsilus v. DOE, No. 07-5362, 2008 U.S. App. LEXIS 15314, at *2 (D.C. Cir. 2008) (per curiam) (emphasizing that “[a]ppellant’s indigence and his private litigation interest are not valid bases for waiving fees under FOIA”). Therefore, this Office upholds the Records Office’s decision to deny you a fee waiver.

Conclusion

With respect to your expedited processing and fee waiver requests under the Freedom of Information Act, this is the final decision of the Postal Service. You may seek judicial review of this decision by bringing suit for that purpose in the United States District Court for the district in which you reside or have your principal place of business, the district where the alleged records are located, or in the District of Columbia.

We also note that as an alternative to litigation, you may wish to utilize the services of the Office of Government Information Services (OGIS), National Archives and Records Administration. OGIS was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. You may contact OGIS in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road
College Park, MD 20740-6001
E-mail: ogis@nara.gov
Telephone: 202-741-5770
Facsimile: 202-741-5769
Toll-free: 1-877-684-6448

For the General Counsel,



Christopher T. Klepac
Chief Counsel
Federal Requirements

cc: Ms. Eyre
Ms. Chavannes-Battle



Sai . <saizai@gmail.com>

FOIA request 2014-FPRO-00057

1 message

Chavannes-Battle, Nancy P - Washington, DC <nancy.p.chavannesbattle@usps.gov>
To: "Sai (usps@s.ai)" <usps@s.ai>

Tue, Dec 24, 2013 at 9:59 AM

RECORDS OFFICE



December 24, 2013

Sai

PO Box 401159

San Francisco, CA 94110

RE: FOIA Case No. 2014-FPRO-00057

Dear Mr. Sai:

This responds to your email dated November 25, 2013, in which you responded to my email dated November 25, 2013 regarding fee estimate for your Freedom of Information Act request with tracking number 2014-FPRO-00057. You originally requested records pertaining to five listed items in connection with private address forwarding and PRC docket MC2013-60.

In your email you informed us to search within the Product Information Department. After contacting that department, responsible persons in the Product Information Department advised that a search of their files disclosed 14 pages of record material responsive to your request. All of these pages are being released to you in their entirety and are enclosed herewith.

Furthermore, we assumed you were amending your request by my email dated November 27, 2013 but you informed me in your November 27, 2013 email response that you were temporary limiting your request for a quicker response and that you still wanted all records from the Office of the General Counsel.

Since your fee waiver was denied, once we receive the payment provided to you in my November 6, 2013 letter, we will have the Office of the General Counsel begin searching for records responsive to your request.

I look forward to hearing from you soon on how to proceed with your request. If we do not hear back from you within 30 working days from the date of this letter, we will administratively close this case. Should you have questions concerning this request, I can be reached at (202) 268-2030.

Sincerely,

Nancy P. Chavannes-Battle

Nancy P. Chavannes-Battle

Consumer Research Analyst

Word Mark MAIL MY WAY

Goods and Services IC 035. US 100 101 102. G & S: Mailing services, namely, providing a secure and private interactive on-line computer database containing consumer product and service preferences, as determined by the customer, used to identify customers to participating business advertisers based on those consumer preferences identifying their interests, demographics, and desired method of receiving designated advertising integrating virtual, physical and e-mail addresses in order to expand a business' ability to target mailings, to maximize the effectiveness of mail campaigns, to optimize the application of mailing dollars, and to reduce mailing waste

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 85970529

Filing Date June 26, 2013

Current Basis 1B

Original Filing Basis 1B

Published for Opposition September 17, 2013

Owner (APPLICANT) UNITED STATES POSTAL SERVICE independent establishment of the executive branch of the government of the United States of America UNITED STATES 475 L'Enfant Plaza, SW Washington D.C. 202601136

Attorney of Record SANDRA A. RILEY

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "MAIL" APART FROM THE MARK AS SHOWN

Type of Mark SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE

Word Mark DIGITAL LICENSE PLATE

Goods and Services IC 045. US 100 101. G & S: IDENTIFICATION VERIFICATION SERVICES, NAMELY, PROVIDING AUTHENTICATION OF PERSONAL IDENTIFICATION INFORMATION; IDENTIFICATION VERIFICATION SERVICES, NAMELY, PROVIDING AUTHENTICATION OF PERSONAL IDENTIFICATION INFORMATION VIA SECURE STORAGE AND TRANSMITTING SUCH INFORMATION VIA THE INTERNET; SECURITY CLEARANCE FOR PREPARATION OF IDENTIFICATION CARDS; SECURITY PRINTING, NAMELY, ENCODING IDENTIFICATION INFORMATION ON VALUABLE DOCUMENTS AND PRODUCTS

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 86000747

Filing Date July 2, 2013

Current Basis 1B

Original Filing Basis 1B

Published for Opposition September 17, 2013

Owner (APPLICANT) UNITED STATES POSTAL SERVICE independent establishment of the executive branch of the government of the United States of America UNITED STATES 475 L'Enfant Plaza, SW Washington D.C. 202601136

Attorney of Record KAREN E. OWCZARSKI

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "DIGITAL" APART FROM THE MARK AS SHOWN

Type of Mark SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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360K



Sai . <saizai@gmail.com>

FOIA request 2014-FPRO-00057

Sai <usps@s.ai>

Tue, Dec 24, 2013 at 12:18 PM

To: "Chavannes-Battle, Nancy P - Washington, DC" <nancy.p.chavannesbattle@usps.gov>

Thank you for your partial fulfillment of my FOIA request.

You interpret correctly that my last response to you was meant only to be consistent with my original request's clause requesting that my request be fulfilled partially to the extent possible should there be a problem fulfilling it completely, purely as a practical measure to expedite things — and not a waiver of interest in the remaining documents.

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RECORDS OFFICE



December 24, 2013

Sai

PO Box 401159

San Francisco, CA 94110

RE: FOIA Case No. 2014-FPRO-00057

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Mail My Way

Patent Synopsis

May 15, 2013



“Mail My Way” is a mail delivery service that facilitates the customization and directing of both hard copy and electronic media mail between receivers and senders based on their mailing preferences.

Situatio

- Mail receivers do not have an easy methodology for establishing mail receipt preferences (e.g. physical vs. electronic mail delivery, undesired mailing categories they don't want to receive, etc.) without having their physical or postal mailing address identified
- Receivers have limited capability to proactively identify and/or eliminate what they determine to be spam, phishing or other undesired or malevolent correspondence

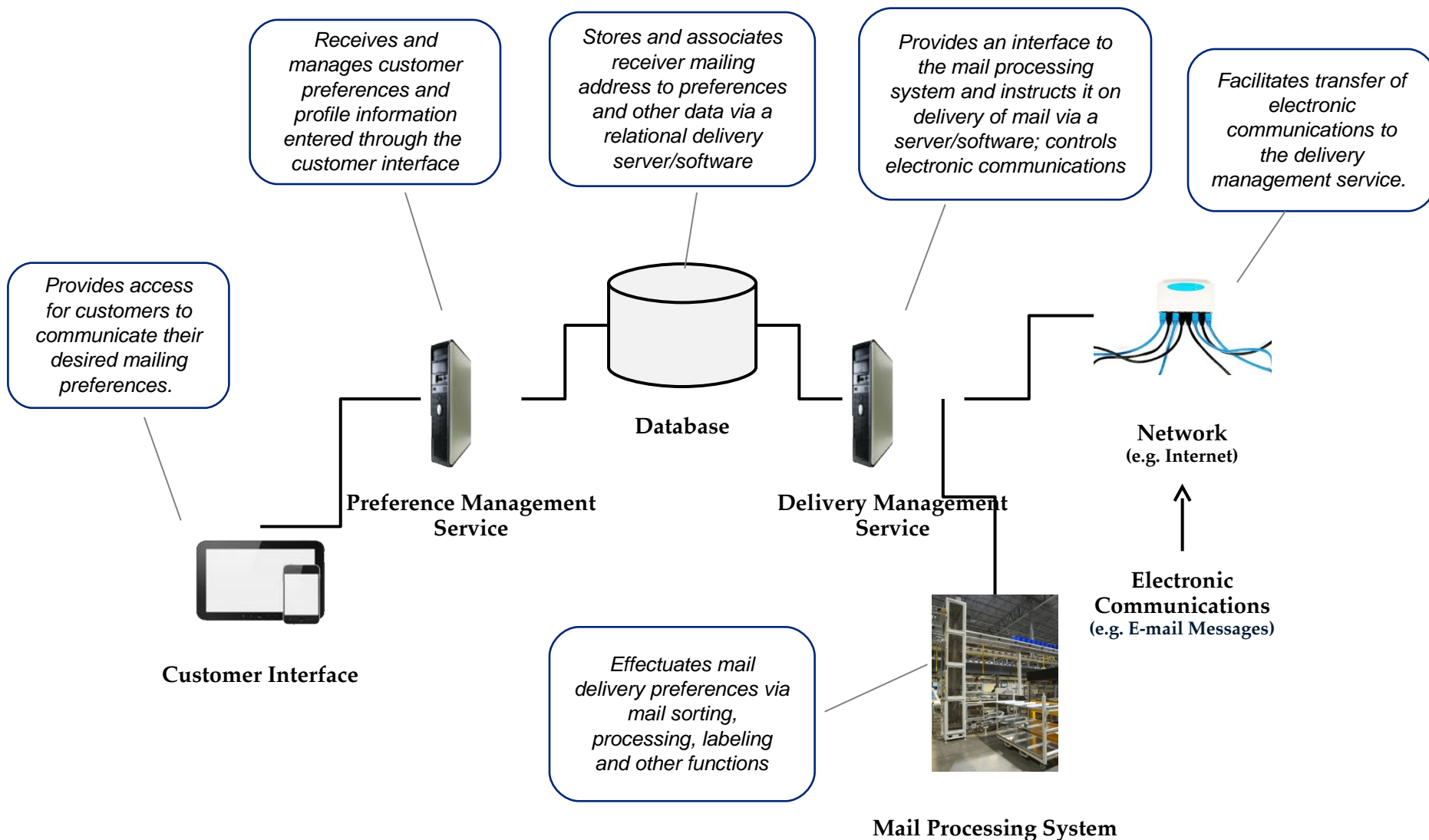
Complicatio

- Existing solutions are ad hoc and do not allow receivers to indicate preferences across a broad reach of categories
- Current repositories (e.g. from the Direct Mail Marketing Association) of delivery preferences are voluntary and can lead to frustration for receivers who receive unwanted communications from non-participating senders

Solutio

A service that...

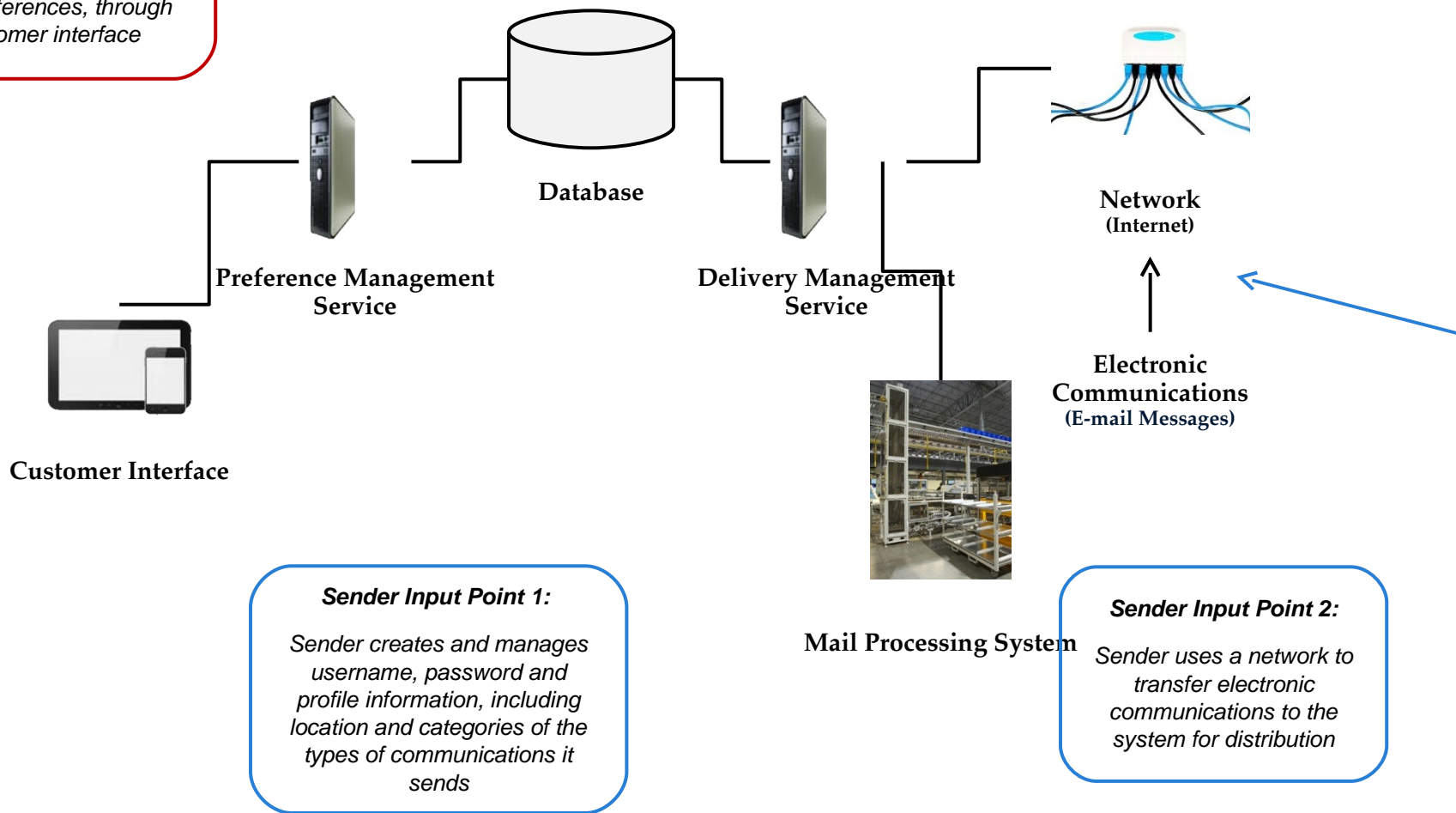
- Improves receivers' control over delivery of physical and electronic mail by allowing them to communicate their preferences to receive specific types of mail by specific categories, characteristics, classes, or other features
- Addresses the customization and directing of both physical and electronic mail between receivers and senders while maintaining receiver privacy
- Provides receivers a designation/identification option to ensure that mail they are receiving meets the criteria they designate
- Enables a trusted party (e.g. USPS) to manage and/or direct the delivery or presentation of “customer-directed” communications



Source: mailmyway.pdf. 2011

Receiver Input Point:

Receiver creates and manages username, password and profile information, including mailing preferences, through the customer interface



Sender Input Point 1:

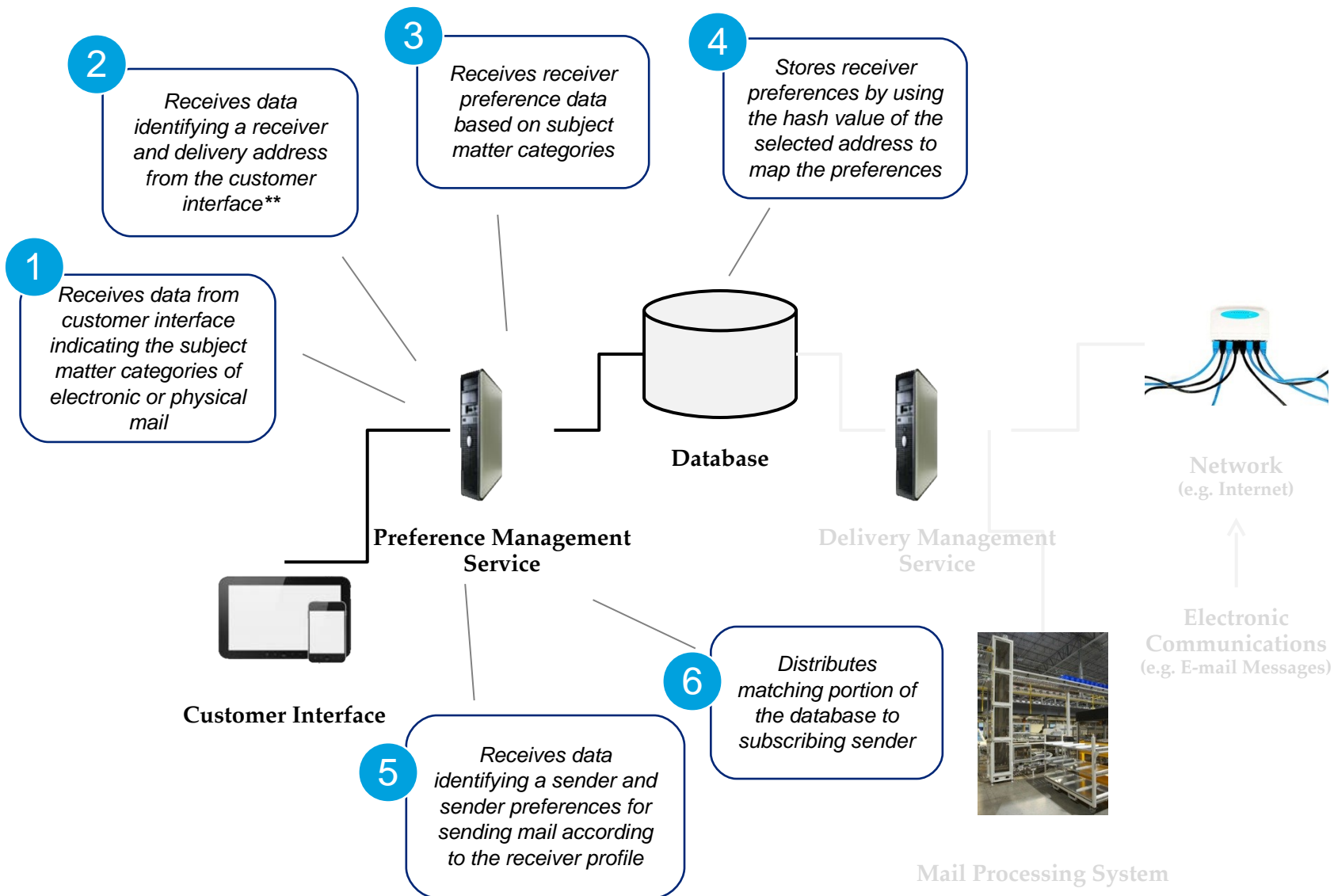
Sender creates and manages username, password and profile information, including location and categories of the types of communications it sends

Sender Input Point 2:

Sender uses a network to transfer electronic communications to the system for distribution

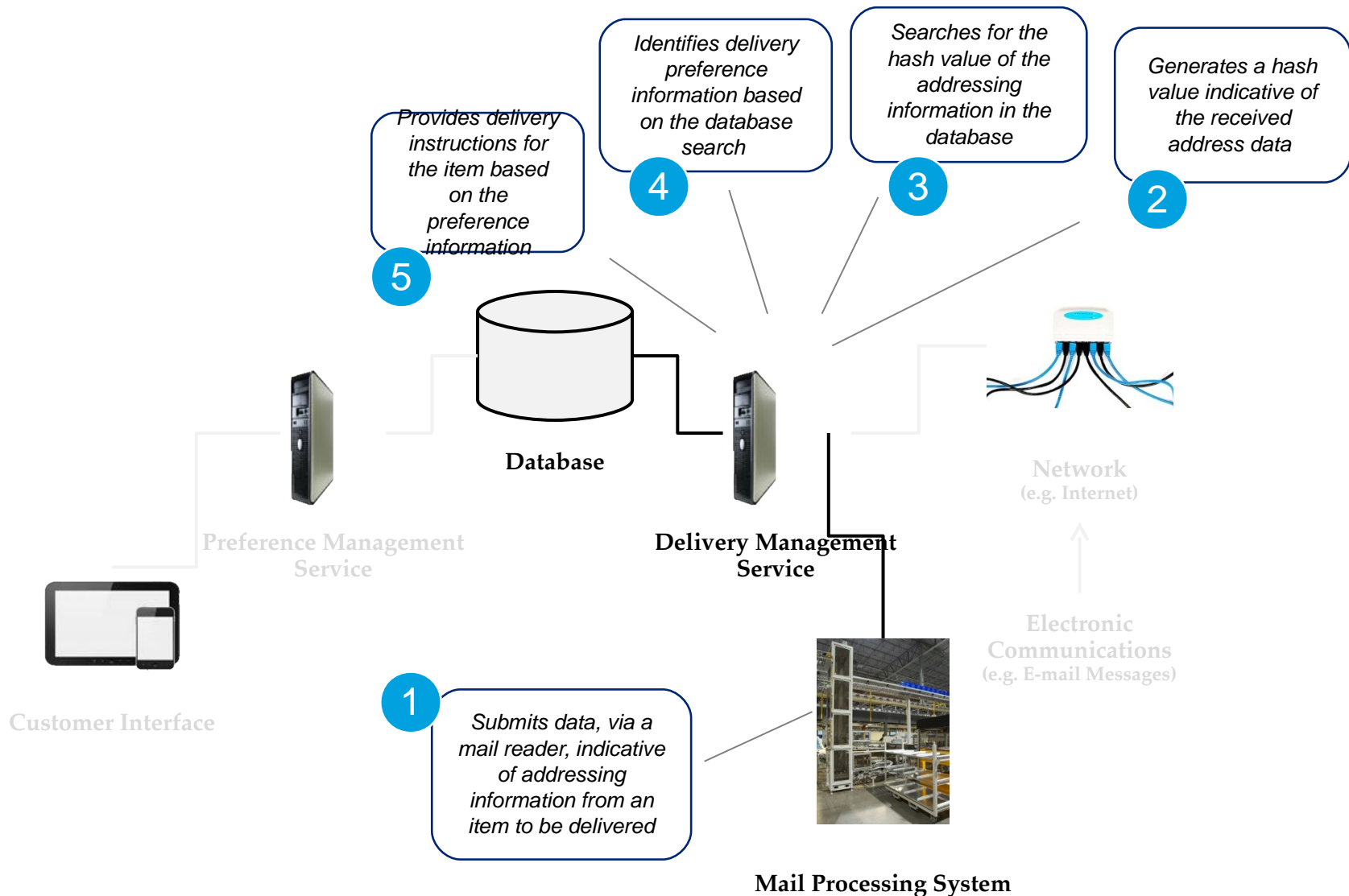


Use Case #1: Establishing Receiver Delivery Preferences in the Database

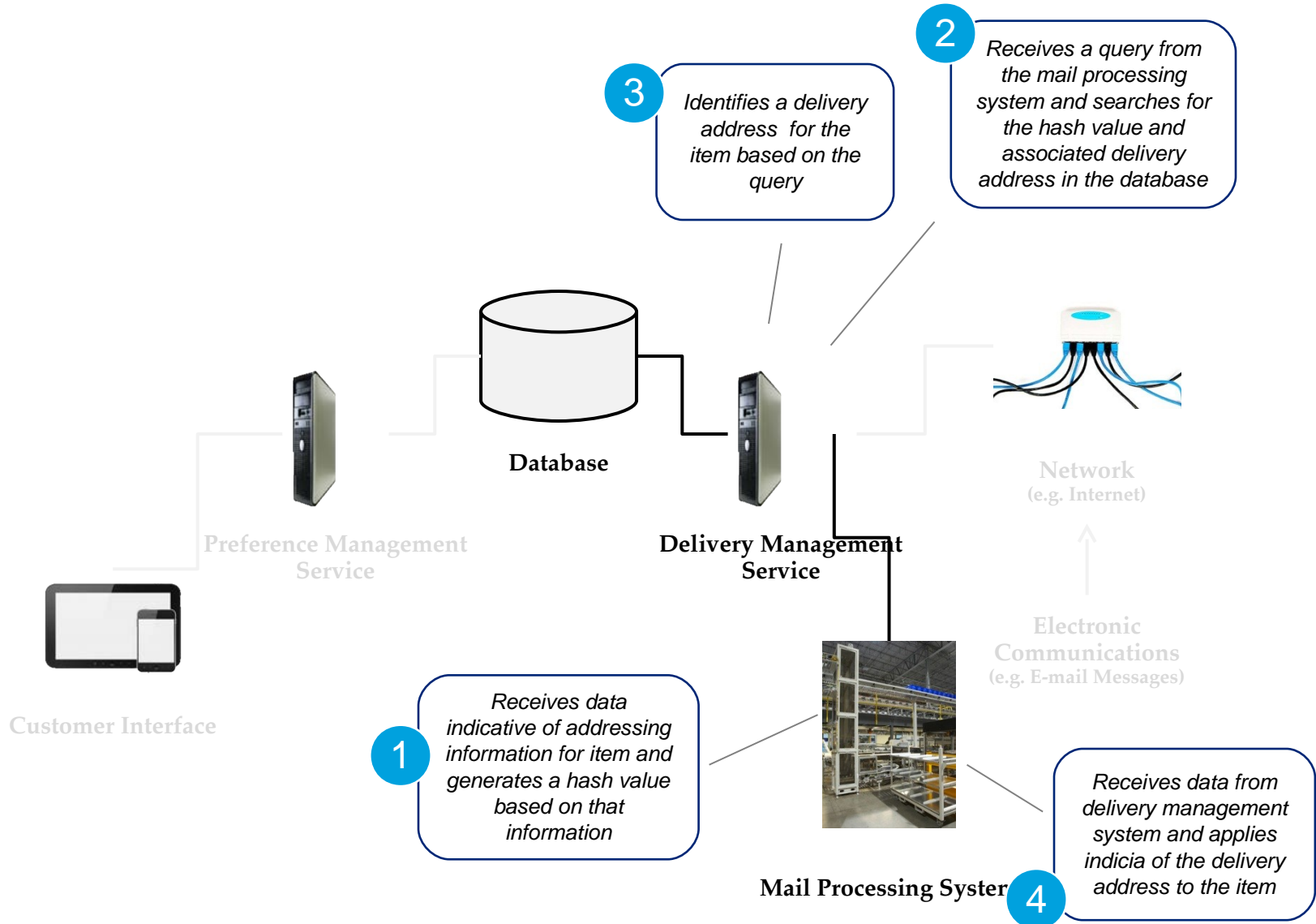


** The preference management system can be configured to validate receiver credentials (e.g. IDP)

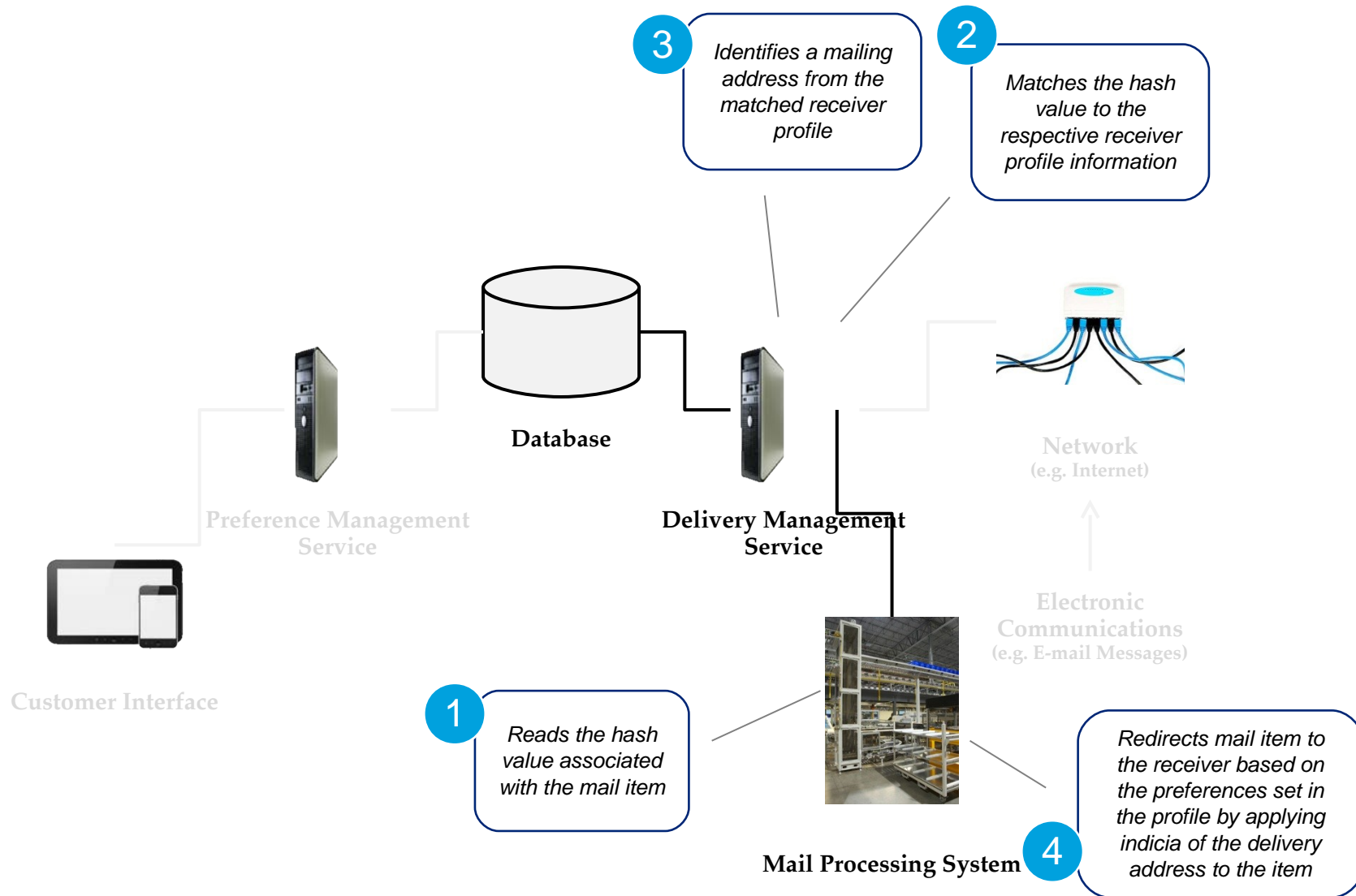
Source: mailmyway.pdf, 2011



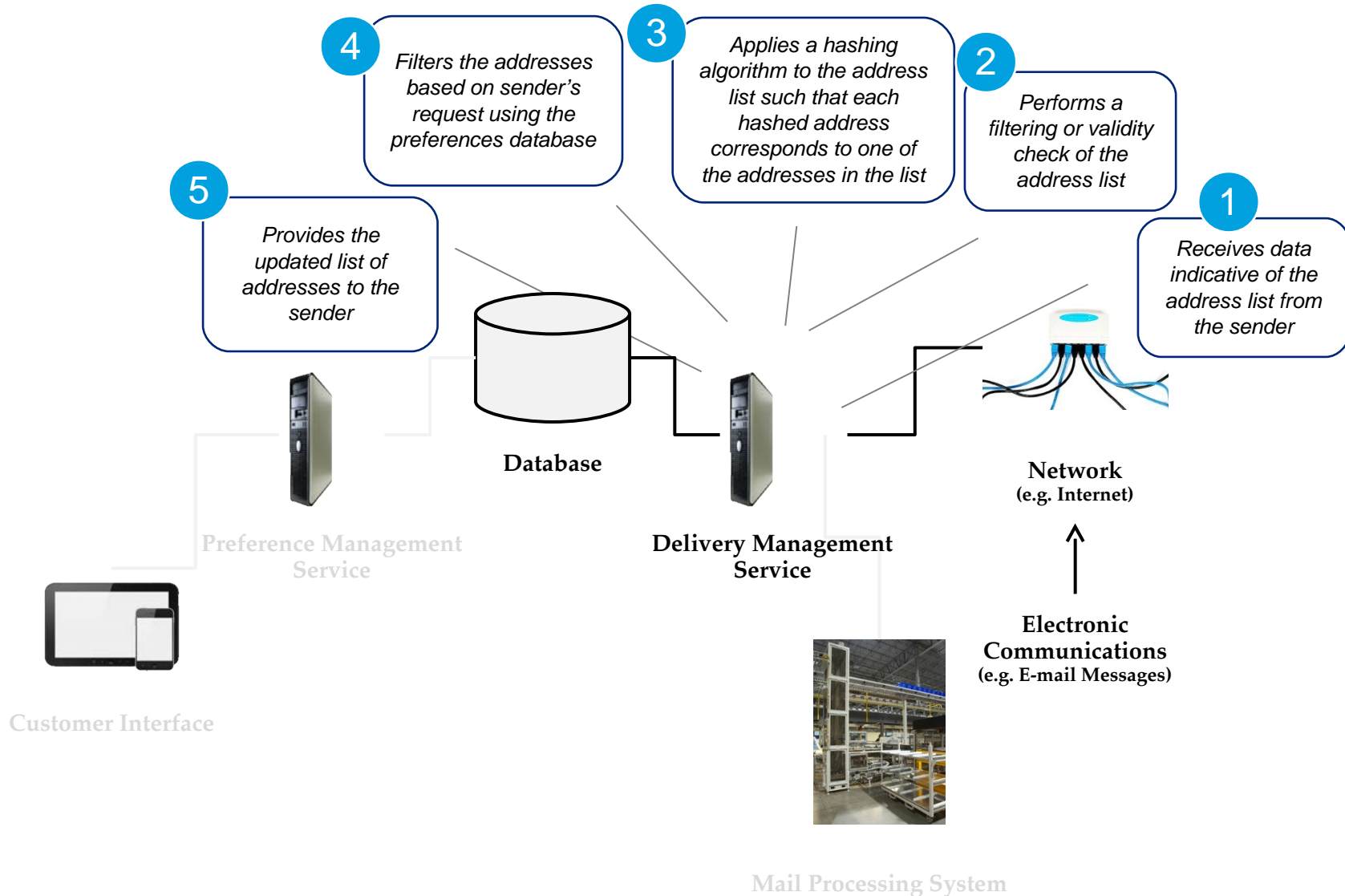
Use Case #3: Delivering Item Based on Virtual Address



Use Case #4: Delivering an Item Addressed with a Hash Value from a Direct Marketer



Use Case #5: Delivering an Item Based on a Sender's Existing Address List



Benefits/Value

Receiver...

- Physical address privacy
- Improved control over delivery of physical and/or electronic mail delivery
- Receivers who are away from home are able to receive important communication electronically

Sender...

- Provides senders access to the preferences database so that they can see consumer preferences (without seeing the actual receiver address)
- Senders can submit a list to a delivery service (e.g. USPS) to confirm address validity and receive an updated address list with invalid addresses identified
- Senders can submit a request to USPS for a list of recipients who are interested in a particular mailing category or type

Implication

- USPS can serve as the intermediary and manage the repository/database that communicates receiver preferences to senders while maintaining receiver privacy
- To establish a profile receivers and senders must establish and validate credentials through a system (**e.g. IDP**)
- There is a verification aspect that USPS can provide that ensures the sender is meeting the receiver's desired preferences
- USPS can charge a fee for the management of the preference management system
- Receivers and senders can leverage the preference management service to "opt" in for additional physical mail security services (**e.g. EPM**)
- If a piece of mail is incorrect (e.g. wrong address), then it is destroyed by the mail processing system instead of being sent back to the sender to protect the privacy/physical address of the recipient
- USPS may receive backlash from its two main customers (senders and MSPs) as a result of decreased physical mail volume

Questions to Address:

Who is the business owner of Mail My Way?

Does SDS want to own the Mail My Way system?

Does SDS want to use the system?

If SDS does want to use the system...

How does SDS want to use the system?

How can SDS wrap existing functionality into system?

How does SDS incorporate Mail My Way into USPS?

Additional Research:

Current USPS data capture processes outside of Mail My Way

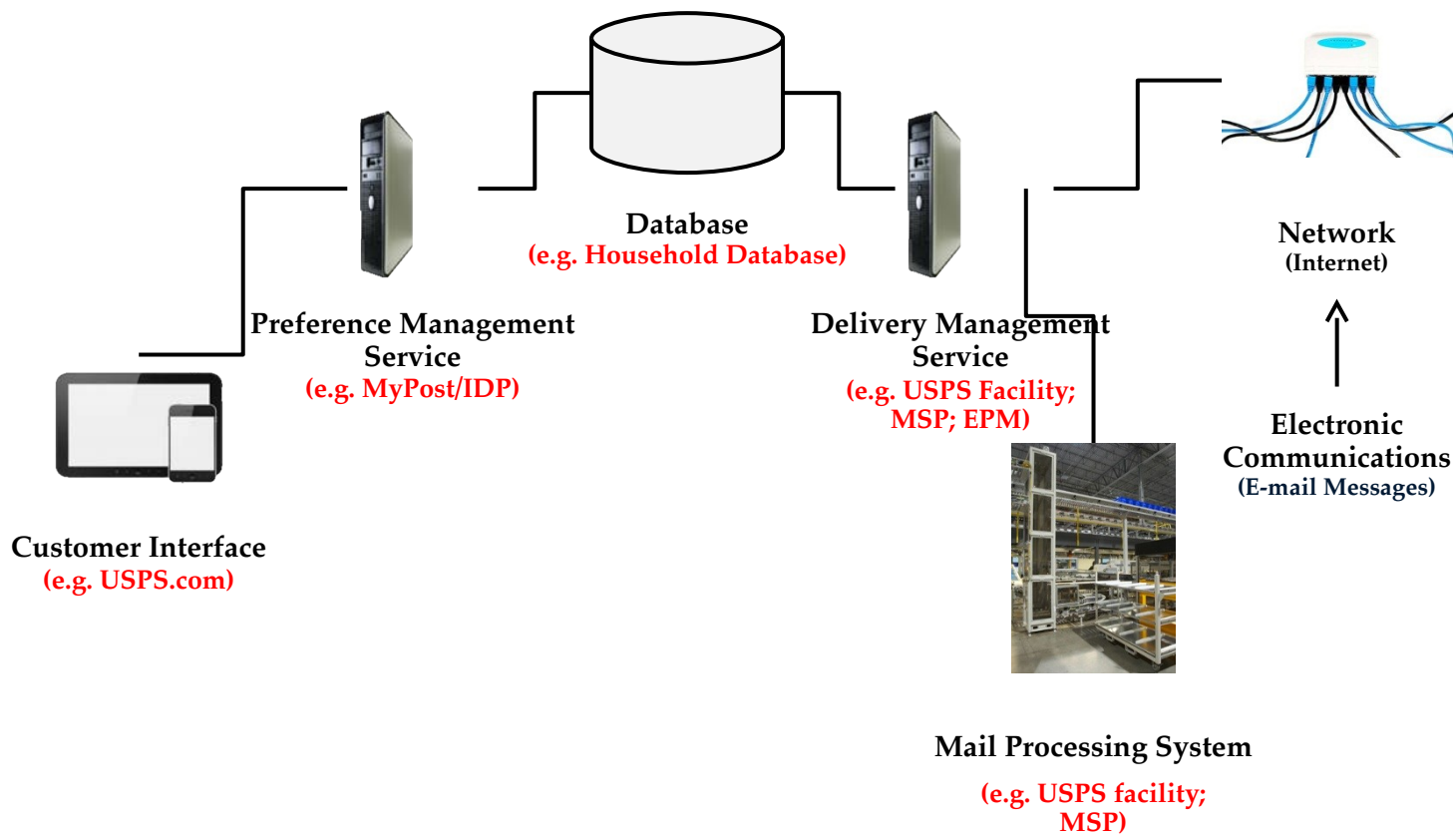
Other relevant patents

“Do Not Mail Initiatives” and “Spam Filters”

Industry competitive analysis (e.g. sumbox, manilla)

Ecosystem/stakeholder impact analysis

USPS and SDS have an opportunity to own and/or manage several components of the “Mail My Way” system. The diagram below provides an example of some integration points.





Sai . <saizai@gmail.com>

RE: FOIA request 2014-FPRO-00057

2 messages

Chavannes-Battle, Nancy P - Washington, DC <nancy.p.chavannesbattle@usps.gov>
To: Sai <usps@s.ai>

Fri, Jan 10, 2014 at 4:32 PM

Dear Mr. Sai,

This is in response to your email below regarding your Freedom of Information Act (FOIA) request dated November 25, 2013 requesting Postal Service records.

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Sincerely,

Nancy Chavannes-Battle

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Consumer Research Analyst

From: saizai@gmail.com [mailto:saizai@gmail.com] On Behalf Of Sai
Sent: Tuesday, December 24, 2013 12:18 PM
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Subject: Re: FOIA request 2014-FPRO-00057

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Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 85970529

Filing Date June 26, 2013

Current Basis 1B

Original Filing Basis 1B

Published for Opposition September 17, 2013

Owner (APPLICANT) UNITED STATES POSTAL SERVICE independent establishment of the executive branch of the government of the United States of America UNITED STATES 475 L'Enfant Plaza, SW Washington D.C. 202601136

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Type of Mark SERVICE MARK

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Live/Dead Indicator LIVE

Word Mark DIGITAL LICENSE PLATE

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Sai <usps@s.ai>
To: "Chavannes-Battle, Nancy P - Washington, DC" <nancy.p.chavannesbattle@usps.gov>

Sat, Jan 11, 2014 at 7:24 PM

Thank you for your update.

Patent documents that are already public are, of course, things that you need not provide me with anything more than a patent ID or application number for. I am fine with obtaining the documents from the USPTO site.

Re. the OGC: what kinds of documents are not "held by the legal department" but are in the OGC? Attorney-client privileged communications are something you would claim exemption on anyway. What else does the OGC or legal department have?

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