

correct copy of the FOIA request is attached as Exhibit A. *See Letter* from Fanny Hidvegi & John Tran to the Department of Justice 3 (Sept. 10, 2015) (Exhibit A) (“EPIC FOIA Request”).

4. The Defendant DOJ is in possession of the EU-US Umbrella Agreement. *See Letter* from Department of State to Fanny Hidvegi (Oct. 7, 2015) (referring EPIC’s FOIA Request to the DOJ Criminal Division) (Exhibit B); *Letter* from Department of Homeland Security to John Tran (Oct. 7, 2015) (Exhibit C) (locating “one document responsive to [EPIC’s] request, which falls under the under the purview of the [DOJ].”

5. The EU-US Umbrella Agreement is a framework for the transfer of personal data between E.U. and U.S. law enforcement agencies. *See Press Release, Questions and Answers on the EU-US data protection “Umbrella agreement”, European Commission* (Sept. 8, 2015) (“The EU-US data protection ‘Umbrella Agreement’ puts in place a comprehensive high-level data protection framework for EU-US law enforcement cooperation.”).¹

6. The EU-US Umbrella Agreement cannot go into effect until the U.S. Congress enacts legislation that grants E.U. citizens certain rights under the Privacy Act of 1974. *See EPIC FOIA Request, Ex. A at 3.*

7. Because Congress is currently debating the Judicial Redress Act, legislation that seeks to implement certain provisions of the EU-US Umbrella Agreement, there is a distinct “urgency to inform the public” about the text of the Agreement. *See id.* The Senate Judiciary Committee is scheduled to consider S. 1600, the Judicial Redress Act, in the coming weeks. *See S. Jud. Comm., Results of Executive Business Meeting, at 1* (Dec. 10, 2015).²

¹ Available at http://europa.eu/rapid/press-release_MEMO-15-5612_en.htm.

² Available at <https://www.judiciary.senate.gov/imo/media/doc/Results%20of%20Executive%20Business%20Meeting%20-%202012-10-15.pdf>

8. The Agreement also plays a key role in current U.S.-E.U. negotiations on the replacement of a similar agreement, the Safe Harbor Arrangement of 2000. Compl. ¶¶ 15–17. European officials have directed negotiators to create a new legal framework by this month. Compl. ¶¶ 16–17.

9. The DOJ has failed to produce any responsive records or make a substantive determination as to EPIC’s FOIA request. The only communication that EPIC has received from the DOJ is a letter in which the agency denied EPIC’s request for expedited processing, but otherwise addressed no substantive issues. A true and correct copy of this letter is attached as Exhibit B. *See* Letter from Department of Justice, Criminal Division (Oct. 8, 2015) (Exhibit D).

10. EPIC appealed the agency’s denial of expedited processing, but has not received a response. A true and correct copy of this appeal is attached as Exhibit C. *See* Letter from Fanny Hidvegi & John Tran to the Department of Justice 3–4 (Oct. 16, 2015) (Exhibit E) (“EPIC FOIA Appeal”).

11. On November 4, 2015, EPIC filed suit against the DOJ to compel production of the single document requested. Service of process was completed via certified mail on November 6, 2015. Copies of the Summons and Complaint were delivered to the DOJ, United States Attorney General, and United States Attorney for the District of Columbia on November 16, 2015. I confirmed receipt of the service packets through the United States Postal Service tracking system. *See* Aff. Mailing, ECF Nos. 10, 11.

12. The Court ordered the DOJ to answer EPIC’s Complaint by December 16, 2015. Aff. Mailing, ECF No. 11.

13. The DOJ has failed to plead or otherwise defend itself in this action.

14. Default was entered against the DOJ by the Clerk on January 6, 2016.

I declare under penalty of perjury that the forgoing is true and correct. Executed on
January 6, 2016.

Respectfully submitted,

Dated: January 6, 2016

/s/ T. John Tran
T. John Tran, D.C. Bar # 1027767
ELECTRONIC PRIVACY
INFORMATION CENTER
1718 Connecticut Avenue, N.W.
Suite 200
Washington, D.C. 20009
(202) 483-1140