

The Bruno consent decree may be examined at the Office of the United States Attorney, District of Nebraska, 1620 Dodge Street, Suite 1400, Omaha, NE 68102-1506, and at U.S. EPA Region 7, 901 N. 5th Street, Kansas City, KS 66101. A copy of the Bruno consent decree may also be obtained by mail from the Consent Decree Library, PO Box 7611, U.S. Department of Justice, Washington, DC 20044-7611. In requesting a copy, please enclose a check in the amount of \$50.75 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Alternatively, you may request a copy of only the consent decree, without the attached appendices, by enclosing a check in the amount of \$13.00 (25 cents per page reproduction cost). Please make checks payable to the Consent Decree Library.

Robert E. Maher, Jr.,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

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DEPARTMENT OF JUSTICE

[AAG/A Order No. 295-2002]

Privacy Act of 1974; System of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), notice is given that the Department of Justice proposes to modify a system of records entitled "Executive Clemency Case Files/Executive Clemency Tracking System," JUSTICE/OPA-001. The purpose of publishing this notice is to document the functions of the Attorney General or his designee in receiving, investigating, and evaluating requests for executive clemency, preparing the necessary reports and recommendations from the Department of Justice to the President in clemency matters, serving as liaison with clemency applicants and the public on clemency matters, and advising the President on the historical exercise of the clemency power.

In accordance with 5 U.S.C. 552a(e)(4) and (11), the public is given a 30-day period in which to comment; and the Office of Management and Budget (OMB), which has oversight responsibility under the Act, requires a 40-day period in which to conclude its review of the system. Therefore, please submit any comments by December 2, 2002. The public, OMB, and the Congress are invited to submit any comments to Mary E. Cahill, Management and Planning Staff, Justice

Management Division, Department of Justice, Washington, DC, 20530 (Room 1400, National Place Building).

In accordance with 5 U.S.C. 552a(r), the Department has provided a report to OMB and the Congress.

Dated: October 22, 2002.

Robert F. Diegelman,

Acting Assistant Attorney General for Administration.

JUSTICE/OPA-001

SYSTEM NAME:

Executive Clemency Case Files/
Executive Clemency Tracking System.

SYSTEM LOCATION:

Office of the Pardon Attorney (OPA), U.S. Department of Justice, 500 First Street, NW., Suite 400, Washington, DC 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have applied for or been granted executive clemency.

CATEGORIES OF RECORDS IN THE SYSTEM:

Paper Files: The system contains the individual case files of persons who have applied for or been granted executive clemency, which may include the following: The clemency petition; character affidavits; investigatory material; court-related documents (*e.g.*, presentence reports, judgments of conviction, and court opinions); official court-martial documents (in military cases); prison progress reports and U.S. Parole Commission notices of action; media reports (*e.g.*, newspaper and magazine articles); official and other correspondence (both generated and received, whether solicited or unsolicited); and inter-agency and intra-agency reports and recommendations and decisional documents relating to individual clemency matters.

Computerized Records: The system also includes an automated database for tracking the handling of clemency cases from filing to final action. Information used to track such progress may include, but is not limited to, the petitioner's name, social security number, birth date, the date the petition was received, offense and sentencing information, the date of final action by the President, and other case-related information. Clemency case file notes may also be summarized and stored in an automated format, and may include any relevant information that would assist OPA in formulating clemency recommendations to the President or otherwise performing its duties more efficiently.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is established and maintained in order to carry out the duties assigned by the President, pursuant to the power granted him under United States Constitution, Article II, section 2, to the Department of Justice in Executive Order of the President 30-1, dated June 16, 1893; and Executive Order of the President No. 11878 (published at 40 FR 42731), as delegated by the Attorney General to OPA in 28 CFR 0.35 and 0.36 (Attorney General Order No. 1012-83, published at 48 FR 22290), and as described in 28 CFR 1.1 through 1.11 (Attorney General Order No. 1798-93, published at 58 FR 53658; as amended at 65 FR 48381 and 65 FR 58223).

PURPOSE(S) OF THE SYSTEM:

Executive clemency case files are maintained by the Attorney General or his designee to facilitate and document the functions of the Attorney General or his designee in receiving, investigating, and evaluating requests for executive clemency; preparing the necessary reports and recommendations from the Department of Justice to the President in clemency matters; serving as liaison with clemency applicants and the public on clemency matters; and advising the President on the historical exercise of the clemency power. In addition, OPA or the Attorney General may provide other Departmental components records and information from clemency case files to the extent it is necessary to perform their functional responsibilities. For example, following a Presidential decision to grant clemency (and occasionally when clemency is denied), the Department's Office of Public Affairs typically makes appropriate disclosures of information to the public, including the name of the person granted clemency, the date of the grant of clemency, the nature of the relief granted (*e.g.*, commutation of sentence, remission of fine, reprieve, or pardon after completion of sentence), the date, sentence, and district of the conviction for which clemency was sought, the city and state of the applicant's current place of residence, and the names of his attorney and character affiants, if any. Automated tracking and retrieval systems enhance OPA's ability to maintain and use the information contained in clemency case files.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES.

Disclosure of records in the clemency file of an individual who has applied for or been granted clemency, and

information contained in such documents, may be made to the following parties when it has been determined by OPA that such a need exists:

(a) The President, and members of his staff, in order to assist him in the exercise of his constitutional clemency power.

(b) Current and former government employees, including law enforcement and judicial authorities, whose comments on a particular clemency matter are solicited by OPA in connection with its investigation and review of a case, in order to enable such persons to formulate a response to the request.

(c) Contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the Federal Government, when necessary to accomplish an agency function related to this system of records.

(d) A private contractor or federal agency for the purpose of preparing bound and indexed volumes containing originals and/or photocopies of the official warrant of clemency granted each recipient of clemency as a public and official record of Presidential action.

(e) An appropriate federal, state, local, foreign, or tribal law enforcement authority or other appropriate agency charged with the responsibility for investigating or prosecuting a violation or potential violation of law (whether civil, criminal, or regulatory in nature), in the event that a record in this system, either alone or in conjunction with other information, indicates a violation or potential violation of law.

(f) A federal, state, local, or tribal agency, including prosecution, corrections, sentencing, or parole authorities, in order to assist it in the execution of appropriate actions necessary to implement a Presidential clemency decision or in the performance of its official duties.

(g) A federal, state, local, or tribal agency or regulatory authority where OPA determines that the agency requires information relevant to a decision concerning the issuance, renewal, revocation, or suspension of a license, permit, grant, or other benefit, or other need for the information in the performance of its official duties.

(h) A court, administrative, or regulatory body when the records, or information derived therefrom, are determined by OPA to be arguably relevant to the litigation or proceeding, and when one of the following is a party to or has an interest in the litigation or

proceeding: (1) OPA; (2) any employee of OPA in his or her official capacity; (3) any employee of OPA in his or her individual capacity where the Department of Justice has agreed to represent the employee; or (4) the United States.

(i) The news media and the public pursuant to 28 CFR 50.2 unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

(j) A Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

(k) The National Archives and Records Administration and the General Services Administration in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

(l) A member of the public who has requested information concerning a specific, named person, provided that such a disclosure shall be limited to: whether a clemency application has been filed, and if so, the date on which it was filed, the type of clemency sought, the offense(s) for which clemency is sought, the date and court of conviction, the sentence imposed, the decision of the President to grant or deny clemency and the date of that decision, the administrative closure of a clemency request and the date of such closure.

(m) Former employees of the Department for purposes of: Responding to an official inquiry by a federal, state, or local government entity or professional licensing authority, in accordance with applicable Department regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the Department requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data is stored in electronic media via a client/server configuration. Computerized records are stored on hard disk, floppy diskettes, compact disks, magnetic tape, and/or on OPA's local area network. Paper records are stored in individual file folders and a secure file room or file cabinets with

controlled access, and/or other appropriate GSA approved security containers.

RETRIEVABILITY:

Individual case files are retrieved primarily by the name of the person who applied for or was granted executive clemency. Case files also may be retrieved by a case file number assigned to each file. Information stored in the computerized case-tracking system is retrieved primarily by searching under the name of the person who applied for or was granted clemency, or on whose behalf clemency was sought. Information stored in the computerized case-tracking system may also be retrieved by the clemency case file number, or the applicant's Bureau of Prisons register number (if he was incarcerated at the time he applied for or was granted clemency).

SAFEGUARDS:

Paper records are secured through the use of safes, locked file cabinets, and/or restricted access to the space in which they are located. Electronic records are safeguarded in accordance with DOJ rules and policies governing automated systems security and access, including the maintenance of technical equipment in restricted areas and the required use of individual passwords and user identification codes to access the system.

RETENTION AND DISPOSAL:

Individual case files are stored in OPA's work area while the clemency request is pending, and generally for up to two years after the date of final decision. Closed case files are transferred to the Washington National Records Center in Suitland, Maryland one full year after the calendar year in which the case was closed. Except for copies of reports furnished to the President on particular clemency matters, clemency warrants and other documents reflecting the President's action in clemency cases, case files in any cases in which clemency is granted, case files in any other cases designated by the Pardon Attorney as having significant public interest, and notices issued by OPA to the Office of Public Affairs of the Department of Justice, case files at the Washington National Records Center are destroyed no sooner than 25 years after the case is closed, in accordance with Records Disposition Authority NC1-204-95-1, or successor Records Disposition Authority.

SYSTEM MANAGER(S) AND ADDRESSES:

Pardon Attorney, Office of the Pardon Attorney, U.S. Department of Justice,

500 First Street, NW., Suite 400,
Washington, DC 20530.

NOTIFICATION PROCEDURE:

Address inquiries to Office of the
Pardon Attorney, U.S. Department of
Justice, 500 First Street, NW., Suite 400,
Washington, DC 20530.

RECORD ACCESS PROCEDURES:

While the Attorney General has
exempted executive clemency case files
from the access provisions of the
Privacy Act, requests for discretionary
releases of records shall be made in
writing to the system manager listed
above with the envelope and letter
clearly marked "Privacy Access
Request." Include in the request the
general subject matter of the document.
Provide full name, current address, date
and place of birth, signature (which
must be either notarized or submitted
under penalty of perjury) and a return
address for transmitting the information.

CONTESTING RECORD PROCEDURES:

While the Attorney General has
exempted executive clemency case files
from the correction (contest and
amendment) provisions of the Privacy
Act, requests for the discretionary
correction (contest and amendment) of
records should be directed to the system
manager listed above, stating clearly and
concisely what information is being
contested, the reasons for contesting it
and the proposed amendment to the
information sought.

RECORD SOURCE CATEGORIES:

Sources of information include:
individual applicants for clemency,
their representatives, and persons who
write, confer with, or orally advise OPA
concerning those applicants;
investigatory reports of the Federal
Bureau of Investigation, the Drug
Enforcement Administration, the
Internal Revenue Service, and the
Immigration and Naturalization Service,
and other appropriate government
agencies; records of the Bureau of
Prisons; reports of the Armed Forces;
presentence reports provided by the
Bureau of Prisons or the federal
Probation Offices; reports of the U.S.
Parole Commission; comments and
recommendations from current and
former federal and state officials; and
employees of the Department of Justice
and the White House.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted
this system from subsections (c)(3),
(c)(4), (d)(1), (d)(2), (d)(3), (d)(4), and
(e)(5) of the Privacy Act pursuant to 5
U.S.C. 552a(j)(2). Rules have been

promulgated in accordance with the
requirements of 5 U.S.C. 553 (b), (c), and
(e) and have been published in the
Federal Register.

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DEPARTMENT OF JUSTICE

Antitrust Division

Public Comments and Response on Proposed Final Judgment in *United States v. Computer Associates International, Inc., et al.* Exhibit

Pursuant to the Antitrust Procedures
and Penalties Act, 15 U.S.C. 16(b)-(h),
the United States hereby publishes
below the comment received on the
proposed Final Judgment in *United
States of America v. Computer
Associates International Inc. and
Platinum technology International, inc.*,
Civil Action No. 1:01CV02062 (GK),
filed in the United States District Court
for the District of Columbia, together
with the United States' response to the
comment.

Copies of the comment and response
are available for inspection at Room 200
of the Department of Justice, Antitrust
Division, 325 Seventh Street, NW.,
Washington, DC 20530, telephone (202)
514-2481, and at the Office of the Clerk
of the United States District Court for
the District of Columbia, E. Barrett
Prettyman United States Courthouse,
333 Constitution Avenue, NW.,
Washington, DC 20001. Copies of any of
these materials may be obtained upon
request and payment of a copying fee.

Constance K. Robinson,
Director of Operations.

United States' Response to Public Comments

Pursuant to Section 5(d) of the
Clayton Act, as amended by Section 2
of the Antitrust Procedures and
Penalties Act (codified at 15 U.S.C.
16(b)-(h)(the "Tunney Act")), the
United States responds to public
comments received regarding the
proposed Final Judgment submitted for
entry in this civil antitrust proceeding.

I. Background

On September 28, 2001, the United
States filed a civil antitrust Complaint
alleging that the Merger Agreement
between Defendants Computer
Associates International, Inc. ("CA")
and Platinum *technology International, inc.* ("Platinum") had the effect of
lessening or eliminating competition
between them in the sale of certain
software products in violation of

Section 1 of the Sherman Act, 15 U.S.C.
1. The Complaint alleged that, prior to
March 1999, Platinum aggressively
competed with CA in the development
and sale of numerous software products,
including mainframe systems
management software products. On
March 29, 1999, CA and Platinum
entered into a Merger Agreement
pursuant to which CA would purchase
all issued and outstanding shares of
Platinum through a \$3.5 billion cash
tender offer.¹

The Merger Agreement set forth
numerous covenants made by Platinum,
as part of the agreement to be acquired,
regarding how it would conduct its
business during the period between the
signing of the Merger Agreement and
the closing of the acquisition transaction
(the pre-consummation period). Under
the Merger Agreement, CA and
Platinum agreed that Platinum would
not offer discounts greater than 20% off
list prices for its software products and
consulting services unless CA approved
the discount. Before the merger
announcement, Platinum commonly
gave discounts over 20% for its software
products and consulting services. In
furtherance of this Agreement, CA
installed one of its vice presidents at
Platinum's headquarters to review
Platinum's proposed customer contracts
and exercise authority to approve or
reject proposed contracts offering
discounts greater than 20%. CA also
obtained prospective, customer-specific
information regarding Platinum's bids,
including the name of the customer,
products and services offered, list price,
discount, and the justification for any
discount. Platinum placed no limits
with respect to CA's use of this
information. CA used this information
to monitor Platinum's adherence to the
Merger Agreement's limitation on
discounts and to exercise its authority to
approve or reject any proposed contract
that offered discounts over 20%.

The United States filed a Complaint
on September 28, 2001, alleging that the
provisions of the Merger Agreement
relating to CA's approval of Platinum
discounts prior to consummation of the
merger violated section 1 of the

¹ On May 25, 1999, the United States filed a
Complaint alleging that CA's proposed acquisition
of Platinum would eliminate substantial
competition and result in higher prices in certain
mainframe systems management software markets.
*See United States v. Computer Associates
International Inc., et al.* (D.D.C. 99-01318 (GK)).
Simultaneously with the filing of the Complaint,
the parties reached an agreement that allowed CA
and Platinum to go forward with the merger,
provided that CA sell certain Platinum mainframe
systems management software products and related
assets. Thereafter, CA accepted for payment all
validly tendered Platinum shares and the
Defendants consummated their merger.