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The \$400 surcharge for filing an application as a non-"docx" file is absurd, and it has no relation to what it costs the USPTO to perform optical character recognition, which is a few dollars at most. The \$400 surcharge is a penalty and, therefore, not allowed.

First, despite the USPTO's assertions to the contrary, there is no standard for "docx." Even if one uses Microsoft Word, there is no guarantee that a file generated via the Mac version will be rendered properly by Microsoft Word on a PC. EVERYONE who uses a Mac knows this.

Second, even if it were the case that there were a "docx" standard or one could be reasonably certain that at least the "docx" file would be correct, the USPTO's electronic systems are abominable and cannot be trusted to properly convert a "docx" file to PDF. The USPTO cannot even process drawing files without degrading the quality significantly, nor can it reliably detect drawings and other documents that are already A4 or 8.5x11". Patent Center has made things even worse, not recognizing the PTO's own ADS form and only haphazardly collecting information from the latest ADS form, and also putting the wrong due date on issue fee payment forms it generates. Yet we patent practitioners are supposed to trust the USPTO's electronic systems to correctly convert a "docx" document (whatever that means) to a PDF file? Yeah, no.

Third, because no rational practitioner would ever trust the USPTO to properly convert a "docx" file to PDF, that leaves us in the position of either having to do a line-by-line comparison of whatever the USPTO generates to the real PDF we wanted to file. The cost of that comparison will far exceed \$400 because of the amount of time it will take. And this means that rational practitioners will just pay the \$400 penalty and pass it along to clients. As a result, the cost of filing a patent application will increase by roughly 40% for small entities, and by roughly 20% for large entities. The \$400 penalty will dramatically increase the cost to the public for no valid reason.

What the USPTO should do, and what practitioners have recommended, is deem the PDF version filed by the applicant the official version of the application, but request the "docx" or other native format version of the file for its own convenience. (And let's face it, that is the ONLY reason for imposing the \$400 penalty, which has nothing to do with the actual cost to the USPTO, which the USPTO has admitted on the record is a few dollars at most.) Then the publications people can use the native file to speed publication, and the Examiner can use the native file to copy-paste whatever he/she needs for an office action, but the applicant knows the OFFICIAL version is the CORRECT PDF file the applicant filed.