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With respect to 37 C.F.R. § 1.16(u), the imposition of a \$400 surcharge for filing a patent application in PDF form rather than DOCX, creates a unfair burden on the public. Accordingly, this regulation should not be approved. The PTO claims internal cost savings of \$3.15 per application. The consensus estimate among attorneys polled in a user group of professional colleagues is that the costs of error correction, both pre- and post-filing, potential loss of patent validity, and attendant increase in malpractice costs will be much greater than \$400 per patent application filed. Several professionals from this group have asked their malpractice carriers about the error risk that the PTO proposes to impose, and they have advised that they will likely not be able to cover claims that arise from filing patent applications in DOCX form.

Seventy-three lawyers joined on a letter explaining the costs, https://www.uspto.gov/sites/default/files/documents/Comment_Seventy_Three_Patent_Practitioners_092719.pdf The PTO's "response to comments" in the Federal Register did not genuinely respond. Instead, the PTO paraphrased the comments to avoid recognizing the burden created, and to avoid accurately accounting for them to OMB.

As another example, the PTO has submitted to OMB a "Supporting Statement" dated 2020/11/30 that makes no mention of its new rules for DOCX-format filing, and refers to PKI infrastructure as part of the security mechanism for EFS-Web and PAIR. The PTO's estimates of the burden of the information collections is woefully deficient since they have not accounted for the many costs to the PTO user community of DOCX filing, not to mention the frequent problems with authentication arising from the replacement of the PKI security model and the imposition of Patentcenter.