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37 C.F.R. § 1.16(u), to go into effect in January 2022, imposes a \$400 surcharge for filing a patent application in PDF form (today, applications are filed in PDF). The PTO proposes to impose that \$400 penalty for any filing that doesn't conform to the PTO's preference for Microsoft Word DOCX. This will create immense unwarranted burden on the our office and the rest of the public, and should not be approved.

The problem is that there is no uniform, reproducible way to render a DOCX into a final document. Every computer does something different with a DOCX. The PTO proposes that applicants will file a DOCX patent application, and the PTO will convert the DOCX to PDF on their computers. But there's no way that the PTO can guarantee that the PDF they generate on their computer will look anything like the PDF I generate on my computer. The likelihood of error in filing of patent applications in DOCX is unacceptably high. Thus, patent practitioners must always do a careful comparison of the PTO's PDF rendering of the filed DOCX document to ensure that there have been no changes. This is an absurd cost to my office THAT WAS NOT ACCOUNTED FOR IN THE PTO'S STATEMENT OF BURDEN. The PTO claims that its cost savings are \$3.15 per application. The cost to applicants will be on the order of \$100-\$250 per application filed in attorney or paralegal time proofreading the PTO's PDF rendering of the mandated DOCX filing. Adding in the incrementally larger cost of malpractice insurance, the burden is much greater than the PTO alleges.

The public comment letters pointed out the incompatible, inconsistent way that different computers treat DOCX files. The PTO did not fairly answer the public comments during notice-and-comment. Instead they misparaphrased the comments, and answered only the misparaphrase, without coming to grips with the problems DOCX would create.

For both reasons of unjustifiably large burden and for reasons of unjustifiable procedural shortcuts, the PTO's DOCX proposal should be disapproved.