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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. I have been filing patent applications in PDF form for more than a decade because PDF was required to file the applications electronically. The PTO proposes to impose a \$400 penalty for any filing that doesn't conform to the PTO's proposed preference for DOCX. This will create an immense and unnecessary burden on the public, and should not be approved.

The PTO proposes that applicants will file a DOCX patent application, and the PTO will convert the DOCX to PDF on their computers. The filing attorney or representative must then review the USPTO conversion and either accept any errors present or spend an unknown amount of time in an attempt to provide a document that the USPTO systems can convert to what the applicant intended. Absent a selection of approved software vendor / version / font / etc. the PTO cannot 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 format is unacceptably high.

The attorney cost for pre-filing preparation, error checking, and post-filing error correction (and malpractice insurance costs) will far exceed the PTO's penalty (fee) of \$400 per application.

The public comment letters pointed out the incompatible, inconsistent way that different computers treat DOCX files. Tens of thousands of patent attorneys and their staffs cannot control all the variables with day to day changes on their computer networks, PCs, software, and operating systems.

In addition, the PTO did not fairly address the public comments during the notice-and-comment period. The PTO paraphrased the comments, and answered only the paraphrased version, without addressing the problems filing in DOCX would create.

The unjustifiable burden forced upon the patent bar and the USPTO's non-compliance with the procedures set forth in the APA provide separate and distinct reasons that justify a denial of the USPTO's DOCX proposal.