

**Author Full Name :** Anonymous**Received Date :** 12/29/2020 07:10 PM**Comments Received :**

The USPTO proposes to impose a \$400 surcharge on applicants who electronically file a patent application in any form other than Microsoft Word "docx" format, a significant departure from the universal practice today of filing application papers as PDF documents. After the surcharge goes into effect, applicants who file applications in PDF format will have to pay a fee of \$400, which is at least 100 times the cost to the USPTO of performing optical character recognition on a submitted PDF file. Thus, the surcharge is a massive penalty. This penalty will be more burdensome for small entities and solo inventors.

Ironically, according to the USPTO's proposal, patent applications filed in "docx" format will still be converted by the USPTO to PDF. Thus, the USPTO is proposing to penalize applicants for electronically filing applications in a format that is not only the currently preferred format, but also the format into which the USPTO will ultimately convert the applications.

The likelihood of the introduction of error during the process to convert a "docx" file to PDF format is high. It is well known that computers of different types, potentially using different operating systems or word processing programs, treat "docx" files differently. The USPTO cannot guarantee that the PDF generated from the "docx" file will match the PDF applicants generate on their computers and routinely file today. The converted documents will have to be carefully checked to ensure that no errors have been introduced during the conversion process. The checking process will be so burdensome and will take so much time that its cost will quickly exceed the \$400 penalty.

Moreover, what is an applicant supposed to do if an error in the USPTO-generated PDF file is discovered? Is the applicant supposed to go back and make some kind of (ill-defined) edit to the "docx" file, and then see if that edit results in the USPTO properly rendering the PDF file? How is the applicant supposed to know what kind of change to make to try to correct how the USPTO's systems render the file? For example, if, in an equation, the USPTO's PDF converter changes an "=" sign to a "\$" sign, what is the applicant supposed to do? Add a sentence to the application to say that the "\$" sign is meant to be an "=" sign? Try to figure out what character in the "docx" file will result in the USPTO rendering it as an "=" sign? The premise of the USPTO's PDF conversion proposal is that it will work flawlessly and will never make errors, so those who upload "docx" will avoid the \$400 surcharge. But if there *IS* an error, then the applicant will not have any practical option but to pay the \$400 surcharge anyway.

The USPTO's proposal is misguided and has not been thought through. Its impact on applicants will be enormous. Risk-averse patent attorneys will not trust the USPTO to convert "docx" to PDF properly; we will simply tell our clients it will now cost an additional \$400 to file patent applications. This additional fee, which will increase the cost to a small entity by about 50%, will undoubtedly discourage smaller clients and solo inventors from filing a patent application at all, which is contrary to the USPTO's goal of increasing participation in the patent system by underrepresented groups.

For all of the reasons provided above, the USPTO's proposal to impose a \$400 surcharge on applicants who do not file applications in "docx" format should be disapproved.