

**Author Full Name :** Demian Jackson**Received Date :** 12/30/2020 09:56 AM**Comments Received :**

The proposed 37 C.F.R. 1.16(u), which is to go into effect in January 2022, imposes a \$400 surcharge for filing a patent application in PDF form (i.e., the form that patent applications are presently filed in with no additional surcharge). The USPTO proposes to impose that \$400 penalty for any filing that does not conform to the USPTO's preference for Microsoft Word DOCX. This will create immense unwarranted burden on both the public and patent practitioners alike, and should not be approved.

The problem with the above policy change 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 USPTO proposes that applicants will file a DOCX patent application, and the PTO will convert the DOCX to PDF on their computers. Unfortunately, there is 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.

Further, the attorney cost for pre-filing error checking and post-filing error correction (and malpractice insurance costs) will be well above the USPTO's fee of \$400 per application.

The public comment letters pointed out the incompatible, inconsistent way that different computers treat DOCX files. (See, for example, [https://www.uspto.gov/sites/default/files/documents/Comment\\_Seventy\\_Three\\_Patent\\_Practitioners\\_092719.pdf](https://www.uspto.gov/sites/default/files/documents/Comment_Seventy_Three_Patent_Practitioners_092719.pdf)). Unfortunately, the USPTO 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 USPTO's DOCX proposal should be disapproved. Thank you for your consideration of these comments.