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I am a patent practitioner of more than 40 years' experience. I am also one of the signatories to the "Seventythree Patent Practioners" letter of 27 September 2019 in response to the PTO's publication of the proposed rule.

The PTO's proposed surcharge of \$400 for non-DOCX filing in 37 CFR 1.16(u) is unjustifiable, as it will force inventors and patent practitioners to accept an insupportable burden: either accept a cost that is over 100 times that of the expected cost saving to the PTO [the PTO's own estimate is \$3.15] to file in pdf format, or accept the totally unacceptable risk that the PTO's undisclosed pdf rendering system will transform their DOCX document into something that is other than what they had intended, by altering formatting and even altering characters. It is nothing more than a fee grab.

The PTO's responses to the many commenters pointing out the problems with DOCX have been disingenuous at best. Everyone accepts that DOCX complies with certain standards – the PTO points to ECMA-376 and ISO/IEC 29500 – but no-one, including apparently the PTO*, accepts that these standards are definitive in causing an electronic file in DOCX format to produce the same unique image (e.g. printed page or screen image) on different computers and different operating systems.

[*If the PTO really did accept that DOCX was a standard that did produce the same unique image, so that inventors and patent practitioners could rely on DOCX filing, then they would have no need to insist, as they do, that patent filers accept the result of PTO's opaque rendering from DOCX into pdf as being the authentic filed document – they could simply accept the DOCX filing as the authentic document. That the PTO insists that the result of its rendering to pdf is the authentic document demonstrates that the PTO does not believe that DOCX produces a unique, platform-independent image.]

The PTO's own Supporting Statement of 30 November 2020 is disingenuous at best. It refers extensively to EFS-Web, the PKI infrastructure, and pdf filing.

But the PKI infrastructure is no longer used on EFS-Web, which now uses two-factor authentication; and the PTO's own publicly documented plans are to abolish EFS-Web and force inventors and patent practitioners to move to PatentCenter, and to introduce a \$400 surcharge for pdf filing of new applications. The Rule and the Supporting Statement must estimate the burden, especially the burden to the public, in accordance with the PTO's own intentions and not in accordance with practices it proposes to abandon.

The PTO has also imposed burdens on filers by attempting to change by guidance (changes to the Manual of Patent Examining Procedure) substantive rights of patent filers - for example, the changes to MPEP 706.07(b), 1207.04 (cf. 37 CFR 41.39(b)), and 2144.03(C) (cf. 37 CFR 1.104(d)), when these changes must be made by change in regulation under Department of Commerce regulations, 15 CFR 29.2(a).

Other commenters (for example, Mr David Boundy) have addressed these points in detail; and I fully endorse their comments.

The Rule should be rejected.