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Comments Received :

I am a patent examiner working for the USPTO. I am very concerned about the proposal to require filing in DOCX format, not just because of the burden to Applicants, but because it will also make my job more difficult.

1) An Applicant filed a response to a non-final rejection, in the docx format, using Patent Center. This response had a filing deadline, which would result in abandonment of the application if the deadline is not met. I received an email from a significantly concerned Applicant (more accurately, an agent or attorney representing the Applicant) stating that the response had been uploaded in Patent Center and was not visible as uploaded, though proof of filing had been provided to the Applicant in the form of a filing receipt. I checked in DAV (the patent examiner tool for viewing documents) and was able to see the late filing fee, but not the response documents or any indication they had been filed, other than the fees paid. I called the Applicant and asked if they had called the Electronic Business Center, I was told no, they sent the standard template email for this situation. I am shocked that the "missing response in system" situation is so frequent that there is a standard template and process set up in that attorney or agents docketing system.

The attorneys and agents submitting patent applications to the USPTO have a very stressful job. An increase in the issues associated with filings (because of DOCX and Patent Center issues) could create animosity between the agent/attorneys and the patent examiners. This is not desirable. It is unfair to expect applicants to file using a system which appears to have significant unfixed issues.

2) As an examiner, I have access to 2 versions of a document: a PDF version (as filed) and a text version, which may be a digital OCR of a flattened PDF. (I am not really clear on how this works) I frequently have to compare the 2 documents, because mathematical or chemical formulas are commonly not displayed correctly in the text version. In order to do my job properly, I need to make sure the chemical formulas or equations in the PDF are correct. For example, if an equation is incorrect for Patent Claim 1 in the PDF version, I am required to write an objection or rejection of that claim. If it is incorrect in the text version, I am currently able to assume that the PDF version is the controlling document. If Applicants file in DOCX, and the PDF is generated by USPTO systems, this will create confusion.

I will admit that It is not clear to me which text documents on my docket have been filed in DOCX and which are digital OCR from a flattened PDF. However, every chemical formula subscript and every mathematical formula matters with respect to the patent filing process. I have a fixed amount of time to examine each application, and any time spent comparing two versions of a document is time that I do not have available for prior art search in the determination of the patentability of the claims as filed.

The decision to transition to DOCX was not made by the current administration of the USPTO, whom I do not wish to disparage. I won't be providing my name, for obvious reasons. I appreciate your attention to not increasing the paperwork burden to Applicants.