

61 INTELLECTUAL PROPERTY PROFESSIONALS

PTAAARMIGAN

PATENT AND TRADEMARK ATTORNEYS, AGENTS AND APPLICANTS FOR RESTORATION AND
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Via regulations.gov

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Re: ICR 202408-0651-004 (control number 0651-0027), U.S. Patent and Trademark Office (PTO), *Recording Assignments*, 30-day notice at 89 Fed. Reg. 71259 (Sep. 3, 2024)

Also: Control number 0651-0020, U.S. Patent and Trademark Office (PTO), *Patent Term Extension and Adjustment*, last reviewed 202303-0651-021, concluded 4/4/2023 (see § II starting at page 24).

Also: ICR 202312-0651-001 (control number 0651-0031), U.S. Patent and Trademark Office (PTO), *Patent Processing*, 30-day notice at 89 Fed. Reg. 43825 (May 20, 2024) and ICR 202304-0651-001 (control number 0651-0032), U.S. Patent and Trademark Office, *initial Patent Applications*, 30-day notice at 89 Fed. Reg. 21495 (Mar. 28, 2024) (see page 19, and § III starting at page 26)

Dear Mr. Fraser, Mr. Hunt, Mr. Isaac, and Mr. Tamayo:

We write to comment on the U.S. Patent and Trademark Office's (PTO) Supporting Statement in ICR 202408-0651-004 (control number 0651-0027), *Recording Assignments*. This information collection is another example of the two patterns we have raised in several recent letters:

- The PTO's use of information technology violates many principles of competent software design. The PTO does not design its software in consultation with users, so the software often behaves unhelpfully. In private correspondence, a former member of the PTO's IT shop confirmed that the PTO uses a "developer driven design process" and deliberately chooses to *not* seek input from users. The PTO does not test its software updates, at least not to the standards of the private sector. Important functions are missing, and functions that do exist compute incorrect results. The PTO's software readiness reviews do not

gather, let alone meaningfully consider, significant user input. The PTO forces half-baked designs and buggy errors onto the public through premature software releases, and then (as the examples in this letter show) imposes the burden of seeking correction onto the public.

- The PTO's information collection staff treat the ICR process less than seriously, with seeming apathy towards the needs of PTO's customers, or even as bureaucratic sport to see how the law can be evaded or subverted. The Paperwork Reduction Act is not treated as the opportunity for introspection, self-evaluation, and cooperative process design that Congress intended.

We request as follows:

- a. In this ICR, OMB should give a six-month clearance to give the PTO time to conduct new 60-day and 30-day reviews with new estimates that account for additional burden that the PTO neglected, and new burden recently created by the PTO's buggy software.
- b. OMB should direct PTO to conduct a 60-day and 30-day review for Control number 0651-0020 for a new information collection it sponsored in August, and for which it sought no clearance.
- c. This letter gives examples from 0651-0027 that further substantiate the burden and software problems we highlighted in our letters in ICR 202312-0651-001 (control number 0651-0031) and ICR 202304-0651-001 (control number 0651-0032), both of which are currently under review. In both of these ICRs, the PTO undercounted burden caused by new buggy software that the PTO placed in service prematurely. This letter assures you that the nine-figure estimates of these previous letters are not anomalous software errors—the root cause is a customer-disregarding, unreliable software *development process* that leads to the PTO's pattern and practice of unreliable software. We request an order under 44 U.S.C. § 3504 and 3506(b), that the PTO “develop and maintain a strategic information resources management plan that, to the extent practicable—... to respond to quality issues, usability issues, recommendations for improvements, and complaints about adherence to open data requirements within a reasonable period of time.”
- d. In the last year, the PTO has rushed two new systems into production before they were ready, Patent Center in November 2023 and Assignment Center in March 2024. Based on our experiences with these two systems (see ICR 202312-0651-001), we urge that OMB exercise its authority under § 3504 that a third system, Trademark Center, will **not** be forced into production (in other words, that the old reliable systems will not be retired) until the **user public** says the new system is ready. Because the PTO's software readiness review process so aggressively discounts user

views,¹ the result and recommendation of the PTO's software readiness reviews fail Information Quality standards for influential information in forming agency policy.

- e. We know of no private sector business that treats its customers' need for reliability with such disdain—not even monopolists like Microsoft, Google, or Oracle perform so poorly for users as the PTO does. We know of no instance in the private sector in which a software vendor shut down an existing working product and replaced it overnight—*with no beta testing, no small-group test release*, just a “big bang” transition—and then demanded that users bear the costs of correcting the bugs. There's a reason for the PTO's behavior, and it's time to diagnose it and change it. We suggest that OMB should inquire into compensation metrics and similar management policies for the relevant PTO staff—do compensation metrics or other personnel policies conflict with the agency's obligations of sound IT implementation (§ 3506(b)) and the Paperwork Reduction Act? How is it that the PTO promoted individuals with zero relevant experience into senior IT roles?

The 61 individual signatories are intellectual property professionals (attorneys, agents, assistants, paralegals, and other stakeholders) that sign individually.

PTAAARMIGAN is a not-for-profit § 501(c)(3) organization that educates and advocates on behalf of patent and trademark attorneys, agents, and applicants. All of the effort in this letter (and in all of PTAAARMIGAN's letters) is contributed with no compensation to the volunteer lawyers, patent agents, and other professionals.

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¹ In our letter for 202304-0651-001 (not yet visible on reginfo.gov), pages 53-78 is a compendium of comments gathered by AIPLA, the American Intellectual Property Law Association, the largest professional organization of attorneys practicing in the field. Weeks after these negative comments, the PTO decommissioned the old reliable software and forced the new Patent Center software onto the public. For Assignment Center, the PTO had no beta test, no small-group progressive rollout, and therefore the public had no chance to comment.

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I. Deficiencies in ICR 202408-0651-004 (control number 0651-0027), *Recording Assignments*

A. Background: Assignments and other ownership changes, and recording

Control number 0651-0027 concerns “recording assignments.” When a patent (or patent application) changes ownership, a written document is required. Under our Constitution, ownership initially vests in the individual human inventors. Therefore, nearly 100% of patent applications are assigned from the human inventors to their employer company shortly after filing. Other ownership changes occur when a business is bought or sold, when a patent is bought or sold, when a borrower pledges patents as security for a loan, when a patent is licensed, etc. “Recording” is the process by which applicants submit ownership documents to the PTO so that they can be stored in a publicly-searchable database, so that the public can reliably research who owns what.

Before March 2024, the PTO operated a legacy electronic system for recording patent ownership called EPAS. In March 2024, the PTO shut off EPAS in favor of a new system called Assignment Center. The PTO gave the public *zero* beta testing time of Assignment Center—the overlap time between old EPAS and new Assignment Center was *zero*. As far as we know, the PTO gathered no user input before designing Assignment Center, and got no user feedback on Assignment Center before making it mandatory. (If the PTO did so, the testers did not include

any person known to us.) A good test plan asks for testing from persons likely to stress test the software—if the PTO did *any* testing of Assignment Center before killing off the old software, the externally-visible result suggests that testing only sought the view of low-stress testers.

Before November 2023, the PTO made ownership information available on its old PAIR page (PAIR was the time-tested and reliable system by which the PTO gave public to access to the various databases that describe patent applications). When PAIR was decommissioned (over the public's uniform objection) in November 2023, some (but not all) of the information became available in Patent Center (Patent Center is the PTO's new user interface for the public, which was still in early, low-reliability beta test when the PTO cut over and required its use in November 2023, and is gradually going through its adolescence over the last year). As we note in § I.B below, even this partial access through Patent Center was shut off in August when the PTO found a bug. So for a substantial number of patent applications, there is no way to error check the PTO's records.

The departure from industry-standard design and testing practices has had multiple effects, all of which increase burden, none of which increases are reflected in the PTO's estimates or Supporting Statement.

B. For this ICR, the 30-day notice and Supporting Statement neglect a new information collection that the PTO began to sponsor earlier in 2024, an information collection *to correct a PTO IT error*

Uncleared information collection. Sometime in the summer of 2024, probably during the last week of August, the PTO began to sponsor an information collection using a new form with a new FAQ instructions page:

- Form SB469 <https://www.uspto.gov/sites/default/files/documents/sb0469.pdf> (attached as Attachment 2)
- FAQ is <https://www.uspto.gov/sites/default/files/documents/faqs-sb469.pdf> (attached as Attachment 3)

This form is directed to seeking correction of a PTO programming error. The PTO has not requested clearance (note that the form lacks any § 3506(c)(1)(B) notice). When the PTO submitted its Supporting Statement² on September 3, the PTO didn't bump up the estimates for other line items to account for increased burden. Thus, this new burden is completely uncleared.

Additional background: confidentiality for 18 months. By law, 35 U.S.C. § 122, patent applications are kept confidential for 18 months. 18 months after filing, most patent applications (80-90%) are published.

In spring 2024, the PTO sent a notice that—because of a programming error by the PTO—titles for confidential patent applications was being made available to the public via the ownership recording system. See Attachment 1.

²

<https://www.reginfo.gov/public/do/DownloadDocument?objectID=145999900>

On August 1, the PTO attempted to cover up this first bug by introducing another—the PTO shut down *all* access to *all* ownership information from Patent Center, by removing the relevant tab from the relevant screen. That meant that *even the very applicant who owned the application* was unable to see the current ownership information easily (even though that very user had already been validated as an authorized viewer of confidential information). There’s still a convoluted way to get at ownership information for applications that have already been published, but no way to get at the information for *unpublished* applications. This leaves the applicant with no options to check whether a recently-filed document for a recently-filed application (that is, the overwhelming majority of all assignments) had been accurately received, or to proofread the information the PTO entered into the database, etc. As we’ll discuss later in this letter, the PTO does not treat the relevant data with precision—the PTO changes it willy-nilly and displays it in different formats—so the confirmation papers that the PTO *does* mail are not reliable.

Attachment 6 includes one conversation on IdeaScale, the PTO’s blog for comments on its electronic systems. This blog entry notes that one of the PTO’s attempts to cover up the bug was to report “0 results.” That was false and misleading information. Reporting “search disabled” is truthful, and tells the user to stop trying. Reporting “0 results” is false, and leads the user on a wild goose chase to find a different way to get at the information that the user knows to be extant. This is a typical example of how the PTO’s user-disregarding software development process creates unnecessary burden.

In late August 2024, the PTO introduced a new form SB469 by which an applicant can ask the PTO to generate an interim report that can be accessed through Patent Center, see Attachment 2 and Attachment 3. Note that SB469 does not give access to the live database information, only a one-time snapshot of the ownership information that is placed in the patent application file. Again, because the PTO does not treat ownership data with precision, we have no way to know whether that snapshot in that report is reliable or not.

A further example of the PTO’s improper shifting of burden onto the public is that the PTO does not directly respond to a submitted Form SB469 to inform the requestor whether the form was accepted or denied. Instead, the PTO instructs the requestor to inspect the application file, and if an Abstract of Title does not appear, the filer is to contact the Office of Patent Legal Administration. This imposes an unreasonable burden on patent applicants and practitioners to work around a problem solely created by the PTO’s incompetent software development, *and then to work around the PTO’s delay in responding to the inquiry*. Not only must the requestor prepare and file a “request” that shouldn’t be needed in the first place—and was not needed by the legacy EPAS and PAIR systems—the requestor must also monitor the state of the application file to discern whether the request was granted, and if not, the requestor must undertake time-consuming communications with an unrelated office within the PTO, an office that has no specific expertise, to ascertain the reason for the denial.

The problems created by the PTO’s inept software development. First, despite the passage of over a month since the PTO first published Form SB469 and its FAQs, the PTO has not published a 60-day notice to seek clearance. Second, this is yet another example of the low level of competence and reliability of the PTO’s software operation. Third, it’s another demonstration of the PTO’s anti-commitment to observing the procedures of 5 CFR Part 1320 for its information collections.

Relief requested. (a) ICR 202408-0651-004 for 0651-0027 should be given a six month clearance, so that the PTO can conduct 60-day and 30-day reviews for Form SB469. (b) OMB should exercise its authority under §§ 3504 and 3506(b) and demand that the PTO explain its software development process, why it is inadequate to prevent this kind of bug, why the PTO's IT staff thought that it was acceptable to hide a first bug by creating a second, and why PTO staff thought it acceptable to sponsor a new information collection without the procedures of 5 C.F.R. Part 1320.

C. The PTO's estimates reflect only the time to file a paper, and neglect the burden of *generating* the paper

The PTO estimates time to record an ownership document at 40 minutes. This is a reasonable estimate for preparing the *recordation* and filing it through Assignment Center, when everything goes right.

However, that estimate neglects the “total time, effort, or financial resources expended by persons to **generate** ... the information” to be disclosed. 44 U.S.C. § 3502(2); 5 C.F.R. § 1320.3(b). Time-consuming exceptions (that are becoming less exceptional as globalization proceeds) substantially increase burden of generating the *assignment*: *e.g.*, when inventions are the product of cooperation among inventors in multiple countries, or among inventors working for different companies, identifying the right signatories, preparing the document, chasing down the right people and reminding them (sometimes multiple times) to sign the document, etc., adds, on average, an hour of burden.

Relief requested. The PTO's estimates should be incremented by an additional 60 minutes. This is a systematic problem: many of the PTO's estimates estimate only the clerical task of filing a paper in the PTO's electronic system (“transmitting the information” of § 3502(2)(F)), and ignore the burden of preparing the paper (“searching data sources,” “completing and reviewing the collection of information” of § 3502(2)(D) and (E))—see, for example, our letters in ICR 202312-0651-001.

D. The estimates are based on the PTO's old and now-decommissioned system, and fail to account for poor software design and software bugs introduced in the PTO's replacement software

Assignment Center is another example of the PTO's consistent failure to engage with users before beginning software design, failure to gather information in alpha or beta tests, failure to act on the information it does gather, and general neglect of user needs, and making false claims of software readiness. Assignment Center demonstrates a lack of understanding of how applicants and their representatives operate outside the USPTO. The neglect by the PTO's IT staff is so thorough as to be indistinguishable from actual malice.

1. The PTO's 10 minute bump does not consider all of the helpful time savers in EPAS that were dropped from Assignment Center

The PTO's Supporting Statement acknowledges that one feature of EPAS was dropped when the PTO abruptly switched to Assignment Center with no public vetting. The PTO's

Supporting Statement overlooks several other features that were dropped. On one of the attorney email lists, one user noted:

My biggest gripe with Assignment Center is the impossibility of having a paralegal prepare a cover sheet for recordation and allow me to review, sign and file it. Just looking at the draft receipt so I can approve the paralegal signing the submission is really unsatisfactory. I cannot look to see what pages were uploaded for filing. I cannot be sure that the box is checked for the document serving as both a declaration and assignment as this is checked only upon final submission. I cannot see exactly what was put on the first page when filing a complicated document, such as a correction of a previously recorded assignment or cover sheet. Furthermore, the spacing on the draft receipt is often screwy and it is hard to determining if the spacing was entered correctly or not.

This liability is a definite step back from EPAS. We would love to find out if there can be a workaround for this problem

But the PTO's Supporting Statement and estimates neglect several more features of EPAS (the old ownership recording system) that were dropped from Assignment Center.

EPAS had an easy-to-use template feature. A user could set up multiple template documents with template information. For example, for each client of a law firm, a user could set up a separate template document, which could include the attorney or law firm contact information and client information. This feature was not carried forward to Assignment Center. This imposes a significant time burden—the direct loss of time to type the data, the error-checking, and the error correction.

EPAS accepted XML input. That was important, because most of the software packages that attorneys use to manage their work can output XML for addresses, patent numbers, etc. which could be inhaled reliably into EPAS, to ensure error-free data entry. In contrast, Assignment Center only accepts input by fingers typing on a keyboard. Importing information from users' automated systems eliminates errors introduced by typing.

Assignment Center has a “saved contact” feature, but it's deeply hidden and it only works for the attorney name, not for any of the parties, and it only works sporadically. It's not at all obvious how to enter information into the “saved contact” library—for example, one does not encounter the “secret path” to it as one is preparing an ownership recordation. If it's not readily visible where users will encounter it, it can't be used. Some of our users have observed that the information can be entered into a saved contact address book, but it can't be retrieved when it is needed. Users observed “It did for a couple of hours one day, but something broke it and I cannot get it to work again”—it's unstable. The “saved contact” feature will not store a company as the client, conveying party, or receiving party. So, there's no *practical* stored contact for any information other than the attorney information. Users rate it “half a star on a scale of 1 to 5.”

Relief requested. The PTO's estimates should be incremented by an additional 15 minutes, for all patent and trademark ownership recordations, to account for these omissions. The typing isn't the big burden—it's the error-checking, and the follow-up corrective paper when typos get past initial proofreading. This may be decremented over the next three years—we expect that the PTO will implement these features over time. But the promise that the PTO gave the public—that Patent Center would have all the functionality of EFS-Web and PAIR, and

Assignment Center would have all the functionality of EPAS—was a false promise. The PTO’s basis for its estimates in this ICR—the time required in EPAS---doesn’t carry forward to Assignment Center.

These omitted features illustrate a consistent pattern of behavior—the PTO puts software in service before it’s ready. Over the last two years, the PTO has repeatedly acted with oblivion to user needs and preferences, both in software design, in the absence of meaningful testing, and in premature retirement of older, time-tested systems. Assignment Center is another example.

2. Faulty search

Assignment Center has a “search” function, but it is “utter trash” in the words of one contributor to this letter. It doesn’t have the functionality that is essential, and no PTO employee will accept comments to pass them on to the developers.

On May 23, on one of the attorney email lists, the following conversation occurred:

I received notices of recordation for two assignments on Tuesday and Wednesday. Out of curiosity, I decide to check the USPTO’s assignment database. I was able to locate them using by a Quick Lookup search for assignee yesterday (Wednesday). Today (Thursday) the same exact search did not locate the assignments. I was eventually able to locate them through the Advanced Search by patent number even though I could not find them by Quick Lookup search by patent number.

Is Patent Assignment Search normally this buggy since Assignment Center became compulsory? Will this bugginess for these assignments go away with time?

yes, and who knows.

I had a matter where the counter-party asserted ownership of a patent. I looked in Assignment Center; it's not the recorded owner. So I ask, and the counterparty sent me the recorded assignment. That recordation was only findable on some legacy system. Very frustrating.

The last time I contacted support because I couldn't locate a property I know should be there, they told me to use a different browser.

The broken state of assignment searching is particularly galling given that it is the method by which notice is supposed to be provided to subsequent purchasers under 35 USC 261.

Relief requested. We suggest an additional 20 minutes bump for this bug. When an applicant records an ownership transfer, a prudent user checks a short time later to make sure that the PTO’s database is accurate. It’s very time consuming if there’s no practical lookup feature, or if the lookup isn’t accurate.

3. Other user interface issues—individually small, but cumulatively burdensome, and indicative of poor software development process

1. Nonidiomatic data entry format. Patent application serial numbers always follow a punctuation convention with a slash and a comma: 12/345,678. Patent numbers are essentially always printed with commas, 12,345,678. These two display formats are consistent across all PTO systems. With one exceptional outlier: Assignment Center. Assignment Center insists on an idiosyncratic entry format: no slashes or commas. If one copies a serial number from another source (a filing receipt, etc.) and pastes it into Assignment Center, Assignment Center truncates to eight characters—it keeps the slash and comma (and complains of a data format error), and truncates the last two digits away.

This matters *a lot*. To reduce data entry errors, whenever a document exists that has the serial number in it, users know it's important to copy-and-paste the number from that trusted source to the destination, rather than to type it. Except in Assignment Center. Because of the PTO's pattern of disregard for sound software engineering principles and the Paperwork Reduction Act, Assignment Center neglects the statutory obligation to be "implemented in ways consistent and compatible, to the maximum extent practicable, with the existing reporting and recordkeeping practices" of users. 44 U.S.C. § 3506(c)(3)(E).

Relief requested. OMB should direct the PTO that it *must* modify Assignment Center to accept serial numbers and patent numbers in the standard formats. Until the PTO does so, burden should be incremented by ten minutes to account for corrective filings that must be made.

2. A misleading user interface. When Assignment Center requests the document for upload, the screen appears as follows:

Upload documents

Add required supporting documentation for this request. At least one "supportive" document is required.

Supporting documentation quality control

Supporting documentation must be attached to complete the assignment request.

- These documents must be in **PDF** or **Tiff** format rendered at **300 dpi**.
- An original document can be **scanned** or photographed.
- When taking a photograph of the document, the document must be in good lighting, **free of shading or shadows** to ensure the document is legible.

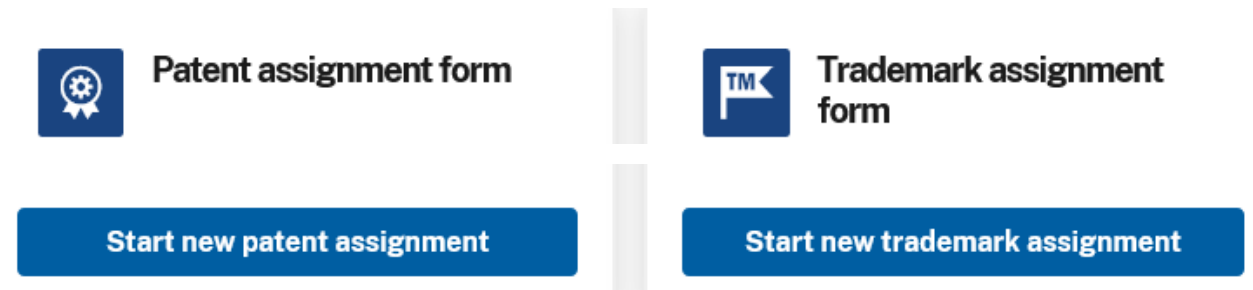
Browse files

Single file size must not exceed 10MB
Accepted file formats are; PDF, TIFF and TIF.

The bottom rectangle on this page appears to be a “drag and drop.” But if a user does a drag-and-drop onto the rectangle, at best the browser will open the file in a new tab, obscuring Assignment Center. That is confusing. At worst, a drag-and-drop will cause the entire system to go into a state that, as a practical matter, results in closing the Assignment Center browser window, which means starting the whole process over again from the beginning.

When the PTO eventually implements a drag-and-drop, then a drag-and-drop appearance is fine. But if the interface requires some other mechanism of file selection, it shouldn’t look like a drag-and-drop. Misleading user interfaces invite error.

3. Non-idiomatic use of language. Throughout Patent Center and Assignment Center, non-idiomatic use of language creates confusion. For example, the first page of Assignment Center presents these two boxes:



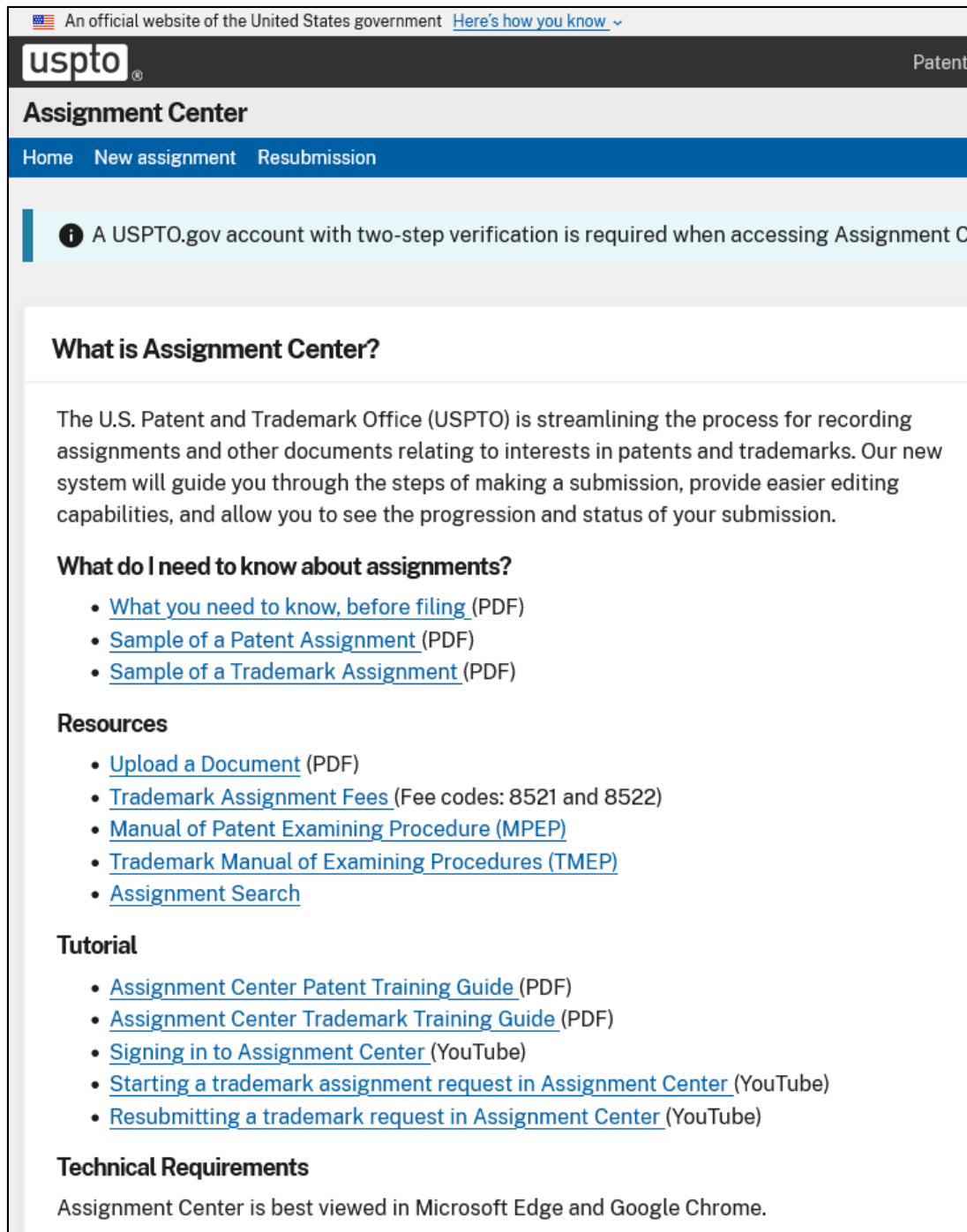
The right titles on these boxes would be “Record patent ownership” and “Record trademark ownership.”

- Neither box starts a “patent assignment form” or “trademark assignment form”—an “assignment” is a completely different thing than *recording* the assignment. A less-sophisticated user (for example, a *pro se* acting without an attorney) might follow the clicks and conclude that by doing so, a legally adequate *assignment* has been created. But the PTO’s software is directed to *recording*, an entirely different thing. The PTO’s software should not make misleading promises.
- These two boxes lead to recording all types of ownership paperwork, not just assignments. If the button is mislabeled “assignment,” then a person seeking to record a trademark license or a patent security interest could be misled into a fruitless search for some other button.

Throughout Patent Center and Assignment Center, careless and non-idiomatic use of language is often confusing and leads to wasted time.³ This is one symptom of the larger pattern we raise throughout this letter: the PTO sought no user input in designing its user interfaces (or didn’t do it well, or didn’t listen to the feedback it received). It’s also clear that the system’s designers didn’t take time to learn enough about patents and trademarks to know the terms of art, and what users actually do. The entire user interface reflects careless use of language, with erroneous results.

³ For another example of how the PTO’s inconsistent use of vocabulary creates uncertainty and difficulty for users, the public has noted inconsistent use of the words “application” and “submission” in Patent Center. See a blog article <https://blog.oppedahl.com/patentcenter-uses-wrong-words-on-links>, and <https://patentcenter-tickets.oppedahl.com> bugs CP34. This bug was reported as early as November 2019 at <https://uspto-emod.ideascale.com/a/dtd/Menu-Bar-labels-on-submission-screen/552938-31593>. However, the PTO deleted all existing IdeaScale submissions in 2023, demonstrating a point we’ve raised several times—the PTO so aggressively avoids user input that, several years ago, the PTO *deleted* all user comments it had received.

4. Poor user interface layout. The user interface is not tailored around common tasks and human perceptions. To take one example, at <https://assignmentcenter.uspto.gov> the most visually-apparent link should be “record an assignment” or “record an ownership document.” It’s not. The front page of Assignment Center looks like this:



The operative click is “New assignment.” It’s in tiny letters, separated from the list of other functions. It’s really hard to find. A good user interface puts the most important information

where a user expects to see it, in a font that draws attention. Hiding the most important click is bad software design.

If the PTO had invited any meaningful user testing, this would have been caught.

5. Drop-down lists with elements in apparently random order. There are two large drop-down lists: the type of document to be recorded, and the list of entity types. Neither is alphabetized or otherwise organized under any perceptible organization scheme. This is the kind of thing that would have been caught if the PTO had conducted any reasonable user acceptance testing.

6. No confirmation data for naked numbers. Other patent offices' electronic systems, when given document numbers, look up the document in a database, and provide a confirmation datum: the document title, inventor name, or some such confirmation that annotates a naked number with data that meaningfully confirms that the number was entered correctly. Assignment Center requires finger-on-keyboard data entry (instead of electronic data transfer between systems), and doesn't provide any confirmation feedback. Because of the non-idiomatic data entry format (item 1 in this list, at page 10), much of the data entry can't even be copy-and-pasted, it has to be fingers on keyboard. This leads to error.

Nonetheless, Assignment Center displays a list of numbers and asks for "confirmation." Confirming a naked number, with no annotation, is unhelpful. The ability to edit to correct typos is limited—a user can't correct a typo, the only way to correct is to delete an entry and reenter it. And that results in a reordering of the list, which makes further proofreading difficult.

Assignment Center used to provide the title of the document, but the developers had neglected to check that the person to whom the information was to be displayed was authorized to receive it. Assignment Center should now implement this feature as it should have been from day one: Assignment Center should confirm that either the application has been published or else that the person recording the ownership transfer is authorized to access confidential information.

This is the type of small user interface choice that makes a big difference. It would have been caught if the PTO had conducted user acceptance testing at the minimum level acceptable in the private sector. This user-interface issue is just one example of the general problem that the PTO has persistently implemented user interfaces that impose high burden and high error risk on the public. The root cause is the PTO's disregard for user-oriented software development, avoidance of user input in design and testing, and contempt for the Paperwork Reduction Act.

7. Burden created by poorly-designed management of login sessions. When a user is logged in to the PTO system, and has both a Patent Center window and an Assignment Center window open concurrently, if the user is active in only one of the two, the other times out. The timeout period is rather short, and remains active and short even if the user clicked the "keep me logged in for 24 hours" box during login. However, Patent Center doesn't tell you that you've been logged out. It just kills whatever you were working on. The login between Patent Center and Assignment Center should be coordinated, so that neither will kick the user out if the user is actively working in the other. The "keep me logged in for 24 hours"—which has never been implemented—should be made to work reliably.

On one of the attorney email lists, a person asked why various transactions only six days old were not showing up in a query for all transactions in the last seven days. One answer explained the various interactions of the session management problems in Patent Center and Assignment Center:

Sometimes when Patent Center behaves weirdly, the explanation turns out to be the passive-aggressive way that Patent Center logs you out. It counts down the time until it decides you need to be logged out. And then it logs you out. But, and this is the important thing, it does not tell you that it did so.

Meanwhile the Patent Center screen that you see looks for all the world like a screen where you ought to be able to click and do things. And instead, when you click to do this or that, Patent Center sort of plays dumb and gives nonsense answers. Examples are "unknown error" in red text. Or "you have no applications matching this search strategy" or "you have no outgoing correspondence". In general the answer is either (a) flatly false or (b) wildly unhelpful.

I wonder if your "no recent correspondence" was due to one of the passive-aggressive logouts? And then somehow eventually you clicked something that shamed Patent Center into auto-logging-you-back-in. And then you have outgoing correspondence listed on the screen. The way you would know, I suppose, is by clicking back to the seven-day report (after viewing the 30-day report) and see if now there is something actually listed.

Oh and I have not put a stopwatch on it, but I think the passive-aggressive logouts from Patent Center sometimes happen as little as ten minutes after my last user activity.

The user-unfriendly session management in Patent Center and Assignment Center creates substantial burden.

- The login screen has a "Keep me logged in for 24 hours" box. Assignment Center and Patent Center should honor that click. They ignore it today.
- The timeout should be longer, at least a half-hour.
- When a user gets logged out via the timeout, when the user logs back in, the user should have the option to reinstate the state that was lost by the timeout.

8. Poor display of columns for tables. When a user first logs in to the workbench (the page that lists all active matters so a user can select one to work on), the displayed columns aren't helpful. For example, patent professionals track their work by their own firm's docket numbers—the PTO's serial numbers aren't terribly meaningful to users—yet Assignment Center by default does not display the user's docket number. The PTO's transaction ID is (from the user's point of view) an entirely random, useless number—but by default, Assignment Center wastes a column's worth of screen real estate on it. The user must click to "show all columns" in order to see the attorney docket number and the columns that the user cares about.

Assignment Center should (a) in the default, include the attorney docket number, and drop the transaction ID, and (b) allow a user to designate the columns to be displayed, and make that selection "sticky" so it will be the default when the user logs in again (this is the default for Windows File Explorer, Microsoft Excel, and most other systems that display data in table form.) None of us can figure out how the PTO chose defaults—they're poorly chosen and make no sense. Likewise, we can't figure out the default sort order. The deeper issue here is that the

PTO did not (meaningfully) engage with users to ascertain real use patterns and what would be practically useful.

9. A “recent activities” click. It should be possible to click on a “recent transactions” or “recent recordations” click to get the recent activity—for error checking, confirmation, etc.

10. No rational search. Assignment Center has a search function, but the only things you can search are Assignment ID and submitted date. Again, from the user’s point of view, the Assignment ID is a random and useless number. The date alone is rarely useful. The most common thing a user needs to search is “recent,” attorney docket number or application/patent/trademark number. Assignment Center doesn’t allow that. Again, the inference is fairly clear: the PTO conducted no user interviews to see what users care about, and has ignored the user feedback it has gotten since the cutover from the old system to the new.

11. No way to enter a company name for correspondence. Under “Correspondence info,” Assignment Center requires a first name and last name. But often, correspondence goes to a company or business name (for example a law firm). Some users put the law firm name in the first name field and “LLP” in the last name field to work around the poor software design.

12. “Contact information” not tailored to the way law firms work. Assignment Center asks for contact information for the entity filing the ownership transfer. This feature doesn’t work the way most law firms work. Law firms do not want paralegal names listed in permanent records, because of employee turnover. Law firms want the firm name and business address listed. Assignment Center simply isn’t set up to work with typical law firm protocols and work flows to be “consistent and compatible... with the existing reporting and recordkeeping practices” as required by § 3506(c)(3)(E) (“”). The contact information has separate First Name and Last Name boxes. This makes no sense: it should be a single box that can be filled in as a single datum. There is no practical value to a “First Name / Last Name” contact, because no one will ever query or sort by this field (in other words, the information that Assignment Center requests has no practical utility). This is another instance that demonstrates our general complaint: the PTO didn’t ask users how things work (and didn’t look at 20 years of past history to see how things have typically been done), and didn’t gather information from a meaningful alpha test or beta test before releasing the software.

13. Inadequate—even misleading—address book. The PTO’s system has an “address book” feature that *looks like it ought to work*, to allow users to add names, addresses, and the like for inventors, for employer parties, for the law firm submitting the recordation, and the like. However, in Assignment Center, when it comes time to use the information, there’s no lookup to get information *out* of the address book. The names just don’t appear in the lookups. In other words, the “address book” requests information that lacks practical utility.

14. Reordering data. When a patent has multiple inventors, the user enters them one at a time. Then when all are entered, then when Assignment Center lists the inventors on a “conveying parties” summary screen, they’re reordered into no discernable order. That makes it more difficult than necessary to proofread.

When users enter a list of data, they almost always have some basis for ordering the list—at the very least for proofreading. Assignment Center should not reorder them.

15. Inconvenient bit-by-bit data entry. For each conveying party, the amount of information to be entered is relatively small. It makes a lot more sense to have a user interface where all are entered on one screen. Assignment Center is really profligate in subdividing the data entry into one small amount of data, next screen, another small bit of data, next screen, another small bit of data, next screen. The absence of context makes proofreading difficult. If the person is interrupted while entering the data, there’s no context so it’s hard to figure out where to resume the data entry.

Another common user interface paradigm allows a click that adds space for another item to be added to a list, so that the entire list is visible at one time. That makes better sense for most users.

16. The data presented for final confirmation before the “submit” click differs from the data actually submitted. When all the data are entered, Assignment Center generates a “draft cover sheet” page for review. But this isn’t useful. Assignment Center changes the data before it actually submits it for processing. There’s no way to fix it.

First, Assignment Center adds or subtracts spaces and commas between data entry, confirmation review, and the actual submit. Some of these changes create error. It certainly makes proofreading more difficult.

Second, for non-U.S. addresses, Assignment Center asks for a “state/province” and includes “state/province” on the “Draft Cover Sheet” that is presented to the user for final review before the “submit” click. But on the Cover Sheet that Assignment Center actually submits for processing, and on the Notice of Assignment Recordation that the PTO generates a few days later as the report of the completed transaction, the “state/province” is omitted.

Assignment Center has a “review sheet” tab that generates a different view than the “draft coversheet.” So the same data will be presented for confirmation, displaying different information in two different ways. As a practical matter, proofreading is impossible. In what competent software development world are these different, and in what competent software development world does either differ from the data the user entered?

PTAAARMIGAN, 61 INTELLECTUAL PROPERTY PROFESSIONALS

October 3, 2024, ICR 202408-0651-004 (control number 0651-0027), *Recording Assignments*, 30-day notice at 89 Fed. Reg. 71259 (Sep. 3, 2024) Page 18

The “Draft Cover Sheet” presented to the user for review before the final “submit” click includes the province:

PATENT ASSIGNMENT DRAFT COVER SHEET	
RECEIVING PARTY DATA	
Individual Name:	Minoru KAWAHARA
Street Address:	11-4-503 Teppo-cho
City:	Matsuyama
State / Country:	Ehime JAPAN
Postal Code:	780-0827

The “Cover Sheet” as generated by Assignment Center to flow through downstream processing omits the province:

PATENT ASSIGNMENT COVER SHEET	
RECEIVING PARTY DATA	
Individual Name:	Minoru KAWAHARA
Street Address:	11-4-503 Teppo-cho
City:	Matsuyama
State/Country:	JAPAN
Postal Code:	790-0827

The permanent record shows the data a third way, changing case (which can be significant in some cases), and omitting the province:

Assignee
KAWAHARA, MINORU
11-4-503 TEPP0-CHO
MATSUYAMA 790-0827
JAPAN

To the public, accuracy is important. Our efficiency (and our malpractice liability) turns on accuracy—re-do’s are *very* costly for attorneys. Other international patent offices, particularly Japan, are *really* persnickety about ownership data—for example, the Japanese Patent Office treats “Company LLC” as a different entity than “Company, LLC,” and an address with “6th Fl.” will be taken as a different party than an address with “Suite 605.” The costs to correct small errors in entity names or addresses runs over \$1000 per application. Because of this interaction with Japanese law, U.S. practitioners are *very* careful about punctuation details, even in their submissions to the U.S. PTO. The U.S. Patent Office has no qualms about nit-

picking errors in applicants' submissions and requiring correction, but has very lax standards for its own precision. That laxity creates substantial burden.

In some cases, character case can be significant—the PTO converts to all uppercase. There's no observable benefit.

The variation creates unnecessary burden: proofreading is easy of the display format it consistent, and difficult if information is presented differently in different contexts.

Competent software practices dictates two simple principles for all of the PTO's IT systems—

- The PTO must treat the user's data, *as the user provides it*, as inviolable. Bit-for-bit integrity is essential for patent applications, for addresses, etc. Users care about details and correctness and work hard to get their inputs precisely correct, because small errors can have big legal consequences and big cost effects on applicants and attorneys. The PTO must honor the user's attention to detail and correctness in its processing and output. No changes.
- One of the first things taught in every programming course is the importance of developing generalized subroutines, so that the same function is performed by the same code in all contexts. Coding separate routines to do the same job in different contexts guarantees that the same job will be done differently in those different contexts, and some will be wrong. Different displays of the same information is not a software bug; it's a demonstration of a defect in the PTO's software development *process*.

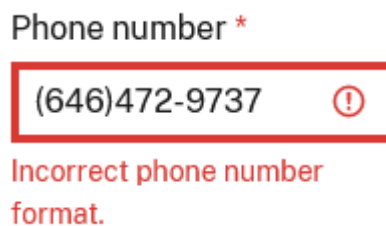
This is another example of a larger pattern we have raised in multiple contexts: the PTO repeatedly demonstrates that the PTO's IT staff don't understand the importance of detail and correctness in the information that the agency generates and disseminates, and don't observe the development practices that yield reliable software. The chief example is DOCX filing, currently under review in ICR 202304-0651001—the PTO treats the *applicant's* uploaded patent application with cavalier indifference. The PTO *actively discards that application* and requires the user to click a box that accepts the PTO's mangled and changed version as authoritative. The PTO has never contested the statements in the DOCX standards documents that promise that DOCX files are *not* reliably reproducible across different computers. That's not acceptable for DOCX filing, and it's not acceptable for ownership transfers. Those of us that had earlier software engineering careers understand the engineering practices that ensure reliability—the PTO's software behavior demonstrates the PTO's consistent nonobservance of those practices.

The PTO's IT staff must change fundamental mindset: *the data belongs to the user, not the PTO*. The PTO is only a custodian, and must preserve the user's data *scrupulously*. The PTO must treat the user's data, *as the user provides it*, as inviolable. Every time the PTO tampers with the user's input, the PTO introduces risk of error. The PTO must stop tampering with party names in assignments—no punctuation changes, no changes of case. Similarly, the PTO must stop tampering with patent applications—the application *as the user uploads it* must be the canonical copy, no "validation" (validation messages are fine, changing the input in the name of "consistency" or for any other purpose must be forbidden), the format must be uniform across all computers (which dictates PDF, not DOCX).

The PTO's practice of modifying the data it receives adds substantial burden. Then the poor human processing (see § I.F starting at page 22) adds more.

Some of these problems are carry-overs from EPAS (the old system had the case change). Other of the problems (the different display at different stages, and dropping the state/province information) is new in Assignment Center. The PTO's estimates in the September 2024 Supporting Statement assumes a carry-forward from EPAS that doesn't apply. The estimates should be bumped up to account for the PTO's new bugs.

17. The phone number field is problematic. When a user enters a phone number, Assignment Center changes the input, and then complains that the changed input is "incorrect phone number format:"



Because of various internal conflicts within the Assignment Center software, the user often has to enter the phone number twice.

Well-designed software would accept a range of phone number formats that tracks the way humans actually type or copy-and-paste from other sources. In contrast, bad software sets a single rigid expectation and forces humans to conform. At the very least, Assignment Center should accept as input the very format into which Assignment Center reformats for output.

18. Clash between Assignment Center software and the PTO's regulation. The PTO's regulation on typed signatures specifies a specific form:

§ 1.4 Nature of correspondence and signature requirements.

(d)(2) *S-signature*. An S-signature is a signature **inserted between forward slash marks**, but not a handwritten signature as defined by paragraph (d)(1) of this section. ... The requirements for an S-signature under this paragraph (d)(2) of this section are as follows.

(i) The S-signature must consist only of letters, or Arabic numerals, or both, with appropriate spaces and commas, periods, apostrophes, or hyphens for punctuation, and the person signing the correspondence must insert his or her own S-signature **with a first single forward slash mark before, and a second single forward slash mark after**, the S-signature (e.g., /Dr. James T. Jones, Jr./); and

The PTO's guidance on signatures⁴ is specific to the provisions of § 1.4(d) and is enforced. For example, the PTO bounces the most-common form for typed signatures accepted by other agencies and private sector parties, "/s/ First Last" or "by First Last" But the signature generated

⁴ https://www.uspto.gov/sites/default/files/documents/sigexamples_alt_text.pdf The PTO's specificity imposes burden well beyond that required by the government-wide *Electronic Signatures in Global and National Commerce Act* (e-Sign Act of 2000) 15 U.S.C. § 7001 *et seq.*

by Assignment Center does not conform to the PTO’s own regulation—there are no slashes (and no opportunity to edit the signature to conform to the rule):

Electronic signature

Signature: David Boundy

Full name: David Boundy

We know of no instance in which the PTO has bounced a submission generated by Assignment Center because of the discrepancy in signature form. However, the clash between Assignment Center and *the PTO’s own regulation* demonstrates our general point, that the developers of Assignment Center obtained too little user input, and consequently the software departs from user needs.

19. Summation and relief requested. When everything goes right, the PTO’s estimate of 30-40 minutes *for the recordation* (ignoring the burden to prepare the assignment itself, see § I.C starting at page 7) is about right. But these defects in user interface invite the user to make mistakes that cause things to go wrong. It takes time to figure out misleading instructions, it takes time to make second corrective filings, it takes time to close and restart a browser window and start over, etc. Then the PTO’s human processing makes error correction *enormously* difficult (as we describe in § I.F below)—we are told by former PTO employees that from day one, many PTO employees are indoctrinated to be very slow to admit mistakes, let alone correct them. Retaliation against applicants that point out PTO error and request correction is common. These cases are not common, but when they occur, the time and burden to correct PTO error are large, and a few outliers pull the average up substantially. In total, the 18 user interface defects pull the average ownership recordation up by about 40 minutes.

OMB should exercise its authority under §§ 3504 and 3506(b) to understand why the PTO’s software engineering process takes so little account of user needs, and why the PTO’s compliance with the Paperwork Reduction Act is so consistently deficient.

E. Assignment Center requests information of no practical utility

The pre-March-2024 system, EPAS, requested the information required by statute and regulation, and no more. In contrast, Assignment Center requests an email address for the recipient party.

An email address for receiving party is not “required for proper performance of the functions of the agency.” An email address for the receiving party is information with no practical utility.

In fact, it has substantial negative utility—scammers use it to scam patent owners. In the trademark context, the PTO has demonstrated an inability to keep this kind of information confidential.

The PTO has never explained how this information could possibly be of any more than “merely theoretical or potential” utility. 5 C.F.R. § 1320.3(l). If the PTO had conducted any user testing, the PTO would have heard that complaint.

Relief requested. OMB should direct the PTO to either give a genuine explanation for this information collection, or remove the requirement to provide an email address for the recipient.

F. The human processing is faulty

The human processing is faulty, and creates burden. One example reported to an attorney email list (edited for clarity) is as follows:

We had an assignment document that assigned one pending patent application, an issued parent patent, and several trademarks. We filed separate recordations for the issued parent and for the pending application. It was the exact same assignment, but we filed with different cover sheets, one listing the pending application and one listing the issued parent patent.

The assignment was recorded for the patent, but we received a notice of non-recordation for the application stating:

The supporting document submitted for recording is not acceptable. Multiple documents are attached to the recordation cover sheet, each transaction must be recorded separately.

The assignment listed both patents and trademarks, but these were all part of one assignment document (i.e. it's not true that “multiple documents are attached to the recordation cover sheet”).

When we called the USPTO, the people we talked to could not point to a rule or guidance from the USPTO to the effect that an assignment cannot include any additional material beyond the patent assignment.

It appears to me that there may be a secret rule of some sort that was promulgated to the assignment people at the USPTO.

Another person described an anecdote in which Assignment Center had changed the data input to it (topic 16 above), and he tried to correct the typographical errors introduced by the PTO's Assignment Center software. The PTO's guidance (MPEP § 323.01) states that “[t]ypographical errors made by the Office will be corrected promptly and without charge upon written request directed to the Assignment Services Division.” The correction process is anything but straightforward. The humans at the PTO mischaracterize requests to correct the PTO's error as a “corrective assignment” and insists that the filer made a mistake. But the human PTO employee is wrong—a “corrective assignment” is a completely different thing (this reflects a lack of understanding of the difference between assignments vs. recordations of assignments). Whatever approach the user takes—phone, fax, email—the first inquiry is turned aside, that it should have been made by a different approach. Users have been told “The MPEP is wrong.” One user estimates that *for a single recordation* the software defect in Assignment Center (changing the data input by dropping the “state/province”) and then unhelpful human processing has *so far* (the PTO has yet to correct errors made back in May 2024) taken *on the order of an*

additional 20 hours—both in communicating with the PTO and in explaining the situation to the client—that would have been unnecessary under the legacy EPAS system.

Human error creates real costs. Individual instances are very burdensome, because the filer has to figure out whether there was any real error in the filing or whether the error was the PTO's. Then overcoming the PTO's reluctance to acknowledge and correct its own errors is very costly. Then finding someone at the PTO that can explain what to do differently next time is costly. Human error can be reduced by good systems design, and we see no sign that the PTO has implemented such design.

On average, burden should be increased by 20 minutes because of unhelpful human processing. This relatively large incremental burden reflects the large effect on the average by a few outliers.

G. The PTO's help lines and comment system are unhelpful, to a degree that suggests active design and intent to avoid reducing burden

When users have called the Electronic Business Center to point out the problems, the EBC representative says it's not their job to receive complaints. "You need to contact the assignment branch. We do not handle that." (Nonsense. Assignment branch is just another user of the software. The contact point for software bugs is EBC.) Unsurprisingly, assignment branch also gives unsatisfactory answers.

Attachment 6 is a set of excerpts from IdeaScale, the PTO's comment blog. Unsurprisingly, the blog moderator indicates that bug and feature issues should be directed to EBC. Users have given up contacting the PTO about the problems with plain defects in Assignment Center (the inadequate search discussed above) long ago due to the finger pointing and lack of any helpful advice.

In another conversation in Attachment 6, a user reports a new problem (the PTO changing policy from sending outgoing correspondence notifications once per day to three times per day, and how that creates genuine substantive problems that affect legal rights). The PTO's moderator gives a response that actively evades acknowledging the problem, or proposing a solution.

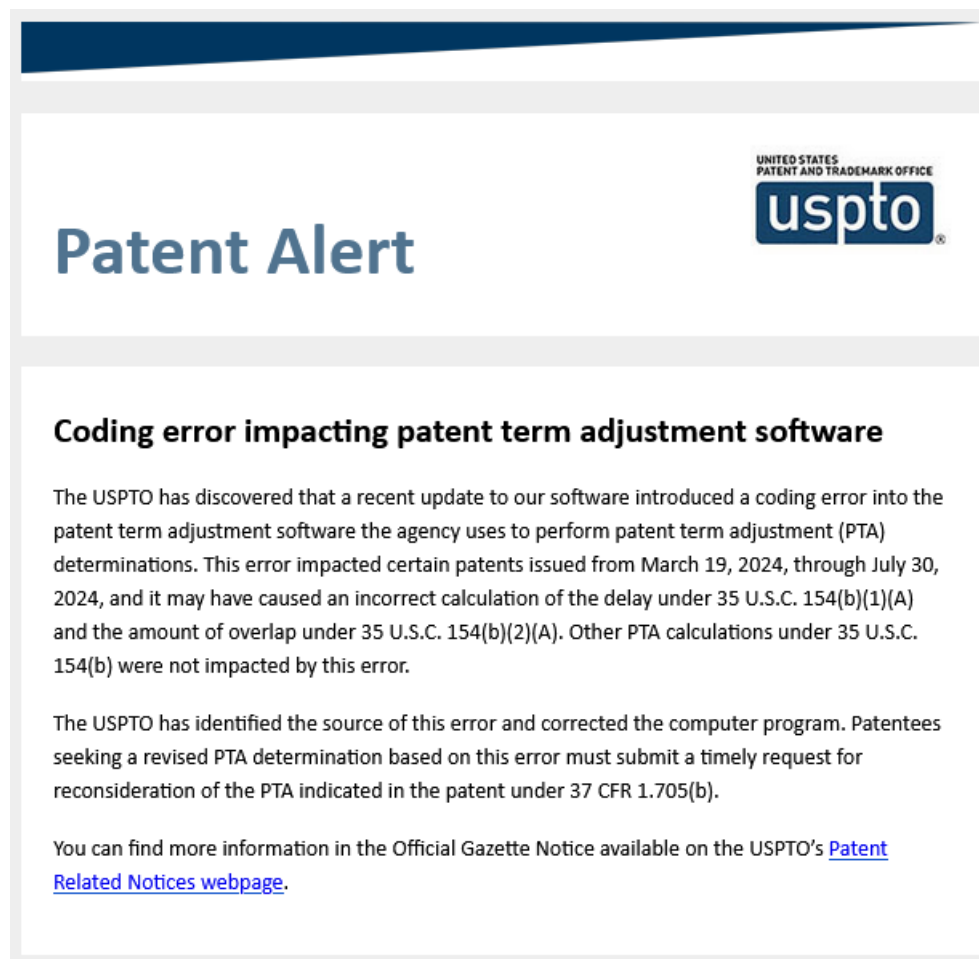
Several patterns are apparent in Attachment 6. In total, they contribute to the public's perception that the PTO's IT personnel are actively dismissive of user needs and of the requirements of the Paperwork Reduction Act. The PTO actively designs its processes to discourage public comment. The PTO actively plays a shell game of refusing to address issues, and instead referring issues to someone else. The central purpose of IdeaScale is to gather information about features that don't work, or features to be added. The IdeaScale moderator's insistence that the bug should be reported elsewhere reinforces the public's view of general incompetence and active hostility to users' ability to get work done. Users perceive that "IdeaScale is where good ideas go to die."

II. For control number 0651-0020, *Patent Term Extension and Adjustment*, the PTO began to sponsor a new information collection for which it has evaded any clearance process

This issue is not directly relevant to ICR 202408-0651-004. We include it here to amplify the issues we discuss above, to illustrate the pervasive ineptitude of the PTO's IT function, and the PTO's general contempt for the procedures of the Paperwork Reduction Act.

The Patent Act, 35 U.S.C. § 154(b) provides that when the PTO delays issuance of a patent application for certain reasons, "the term of the patent shall be extended" day-for-day to compensate for the delay. The statute uses the word "shall"—this is non-discretionary for the agency.

But the PTO coded a bug into its patent term adjustment software. On Friday September 27, the USPTO sent a notice by email:



In a more-detailed notice⁵ the PTO explains further, that only about 1% of patents are affected. Nonetheless, the PTO's notice explains that the full cost of identifying which patents are affected, and seeking correction, with payment of fees, will fall on applicants.

This is problematic for many reasons:

- The statute requires that term “shall” be extended day-for-day for PTO delay. If the PTO has made a corrected “determination of the period of any patent term adjustment under this subsection,” the PTO is obligated to correct its own error.
- We have no doubt that if the error were in applicants’ favor, the PTO would rely on the word “shall” to self-correct and to revoke any excess term adjustment. Though the PTO hasn’t published any list of which patents are affected by the error, the fact that the PTO didn’t self-correct strongly suggests that the error is systematically adverse to applicants. We see no good faith basis for the PTO’s failure to inform specific parties, or failure to self-correct. We ask that OMB infer that the PTO is intentionally avoiding awarding statutorily-entitled and valuable property rights in order to cover up its own error. The PTO can explain, of course, but an explanation should be required.
- If the PTO knows what the error is, which it admits in its notice (“certain patents”), it should tell the public so the public knows where to look. The PTO’s notice that “there’s a needle somewhere in about 1% of haystacks, but we’re not telling you which haystacks, let alone where in the haystack” is a violation of the Paperwork Reduction Act. The PTO’s nondiagnosis unnecessarily increases burden of “searching data sources” and “training personnel.” 5 C.F.R. § 1320.3(b)(1)(vi) and (vii). The PTO’s computers are easily programmed to identify exactly which patent applications are affected, to calculate the differences between old and new term adjustments, and send notices to the specific patent owners, notifying them of the new term adjustments. The statute sets no deadline for the PTO to give notice of its computation; there’s no good faith reason for the PTO not to do so. The PTO’s refusal to refund fees for any requests to correct the patent term adjustment due to the PTO’s mistake, filed before its notice, is further evidence of its lack of good faith. We ask OMB to infer bad faith.
- Patentees are allowed only seven months from a patent’s issue date to request correction. The PTO’s notice to the public of its “coding error” was published on September 25, 2024. Owners of the earliest affected patents that issued on March 19, 2024, have only until October 19, 2024—less than four weeks—to react to the notice, ascertain which particular patents were affected by the PTO’s error (which the PTO knows but unreasonably has concealed), and file a request for reconsideration. The PTO’s announcement that “The USPTO will not consider any untimely filed request for reconsideration of the patent term adjustment nor will the USPTO grant any petition under 37 CFR 1.182 or 1.183 to extend such deadline,” when the reason the patentee seeks reconsideration is solely the PTO’s own “coding error,” is further evidence of the PTO’s systematic lack of good faith, and a violation of the “public protection” of § 3512.

⁵ <https://www.uspto.gov/sites/default/files/documents/og-pta-software-error.pdf> attached as
Attachment 4

- The PTO has no clearance for these additional requests for correction of the PTO’s error, and as of October 1, hasn’t requested any clearance. Without clearance, the PTO may neither impose a deadline nor charge a fee. The deadlines and fees of 37 C.F.R. § 1.705(b) (and of the notice at Attachment 4) are inapplicable, until the PTO has run the procedures of 5 C.F.R. Part 1320 and has a control number that covers the new information collection.

III. The software development defects we note above are symptomatic of a pattern and practice that warrants OMB’s attention under § 3504

A. Assignment Center is another symptom of the problem identified in ICRs 202312-0651-001 (control number 0651-0031) and 202304-0651-001 (control number 0651-0032)

In both ICRs 202312-0651-001 (control number 0651-0031) and 202304-0651-001 (control number 0651-0032), public comment letters note *nine-figure* burden arising from inept PTO software development that is not accounted for in the PTO’s estimates. In those two ICRs, the problems defeat users’ ability to get work done, and create errors that will destroy the value of patents, as we explained in one of the letters in ICR 202312-0651-001⁶ § I (pages 1-3), in ICR 202309-0651-002, and in ICR 202304-0651-001, and in several additional letters received after close of the formal comment periods (and not yet visible on [reginfo.gov](https://www.reginfo.gov)) covering DOCX filing of patent applications. The incremental burden in all these ICRs arises from the same source: the PTO’s IT culture that does not inquire into how users actually operate (violating the PTO’s obligation to “to be implemented in ways consistent and compatible, to the maximum extent practicable, with the existing reporting and recordkeeping practices of those who are to respond,” 44 U.S.C. § 3506(c)(3)(E)), does not implement fault-reducing engineering techniques, and does not test new versions in any commercially-reasonable degree before releasing it for public use. From what we can see at LinkedIn, most of the PTO’s software management staff spent almost their entire careers in the PTO, with not a day of experience in real-world engineering to understand the basic facts of how software and software engineering work. This letter may be taken as confirmation that the inept software practices in those other ICRs create substantial burden.

The problem is not the specific software for recording ownership transfers. The problem is a pervasive culture that disregards the norms and principles that govern good software engineering, principles of Paperwork Reduction, and principles of Information Quality. As external observers, we observe that the PTO actively defies them. We request an intervention under § 3504.

B. The PTO’s new software is buggy—it computes incorrect results, and the PTO shifts the burden to the public to correct the PTO’s errors

We gave one example in § II—the PTO located a bug in its software, and is forcing all costs of correcting the consequences of that error onto the public.

⁶ <https://www.reginfo.gov/public/do/DownloadDocument?objectID=141361200>

Attachment 5 is another recent example. Most nonprovisional applications are published 18 months after their filing date. Provisional applications *never* publish, and they expire after only a year.

Nonetheless, Attachment 5 is a notice of a “projected publication date.” Nonsense. This application is a provisional application (the “63/” serial number in the top left corner confirms that this is a provisional application). Provisional applications never publish. The attorney email lists noted that many of these notices were sent out during mid-August. Some attorneys got several, some got zero. On the attorney email lists, we tried to figure out whether there was any rhyme or reason to these notices. We could discern none. One comment on the attorney email lists was “It’s almost like the USPTO decided they aren’t going to even try to do anything right.” Attachment 5 is dated September 27—in six weeks the PTO hasn’t addressed the bug. The thing that’s most striking is that this is an easy software feature to test. We infer that the PTO no meaningful program or system for testing its software for the easy functions, which confirms our conjecture that many of the problems we’ve written about over the last two years are indeed the result of substandard quality management and testing.

Earlier versions of this Notice sent in August included the sentence “The current projected publication date for this application is PPUB.” What’s “PPUB”? The notices were just gibberish.

When the PTO’s buggy computers send nonsense notices like this, the recipient has to figure out what it means, what to do about it, and how to seek correction. We estimate burden at an hour per instance. We cannot estimate the number of instances. The PTO likely has the data to estimate the number of these erroneous notices that were sent out.

This anecdote has little to do with either 0651-0027 or 0651-0020, except to substantiate our claims that the PTO’s software is immensely buggy, and the bugs are due to systematic inadequacies of the PTO’s software organization.

C. The PTO fails to engage with the public for either initial design or pre-release user testing, resulting in poor user interfaces

Trademark Center is the PTO’s new system for trademarks, to replace an older system. Many attorneys on attorney email lists note that the user interface was almost certainly designed by someone with little experience. The data entry is split among many many pages, a small amount of data per page. This is simply a nuisance. One attorney wrote:

I don’t know if anyone has tried to use the beta USPTO Trademark Center yet (supposedly fully launching January 2025), but it is very tedious. Lots of extra clicking and scrolling to navigate through the application. Additionally, there seems to be a critical flaw in that the specimens are not viewable when the draft filing is sent to the signatory—it shows the file names of the specimens, but there is no way to view them. I submitted this feedback, along with other issues I had, via their feedback form.

Another attorney commented on a feature that was mis-implemented because the PTO’s software design team didn’t bother to consult with knowledgeable people, either the public user base or internal PTO staff:

Second, when the time came to enter the details of the 44e filing basis, so far as I could see it is impossible to set forth that the filing basis is a registration ***granted by the European Union Intellectual Property Office***. So I was forced to go back to TEAS since TEAS does recognize EUIPO as a selection for the 44e office of earlier filing.

This is a sad repeat of a blunder made by the developers of Patent Center. With Patent Center as released, it was impossible to claim priority from a prior application filed in EPO (or in any other regional patent office). It was clear in the case of Patent Center that the developers stupidly just clicked around on the Internet for some list of "all of the countries in the world" and copied and pasted that list into the line of code that generated the drop-down list of would-be priority Offices. Of course the developers of Patent Center, who promised that they were going to replicate all of the functions and features of EFS-Web, should have done a simple code review of that part of EFS-Web and would have seen that the drop-down list included some places ***that are not countries***. The European Patent Office is not a country. But the developers of Patent Center had no clue that the EPO is not a country, or that a customer of the USPTO might need to claim priority from the EPO.

It took some weeks but eventually the developers of Patent Center paid attention to our bug report from the Patent Center listserv, and they fixed their mistake.

So here, too, what has apparently happened is the developers of Trademark Center stupidly just clicked around on the Internet for some list of "all of the countries in the world" and copied and pasted that list into the line of code that generates the drop-down list of would-be Offices for a 44e filing basis. Of course the developers of Trademark Center, who represent to us that they are supposedly replicating all of the functions and features of TEAS, should have done a simple code review of that part of TEAS and would have seen that the drop-down list included some places ***that are not countries***. The European Union Intellectual Property Office is not a country. But the developers of Trademark Center have no clue that the EUIPO is not a country, or that a customer of the USPTO might need to list EUIPO as a 44e filing office.

I did not trouble myself to go and look but I assume the developers of Trademark Center made the same blunder for the drop-down list of would-be 44d filing Offices.

The problem here isn't a few individual software bugs. It's a software development culture that treats the user community as a nuisance rather than a source of information to understand objectives, and treats the Paperwork Reduction Act as a nuisance to be evaded.

IV. Conclusion

OMB should issue a 6-month clearance with a direction to PTO to start over, starting with an honest § 3506(c)/§ 3507(a)/§ 1320.8(a) review that addresses all issues in this letter. OMB should issue orders under §§ 3504 and 3506(b), to require the PTO to improve its software practices. Further specifics are set forth in the bullet list of pages 2-3.

PTAAARMIGAN, 61 INTELLECTUAL PROPERTY PROFESSIONALS

October 3, 2024, ICR 202408-0651-004 (control number 0651-0027), *Recording Assignments*,
30-day notice at 89 Fed. Reg. 71259 (Sep. 3, 2024)

Page 29

Questions may be referred to David Boundy, at (646) 472-9737, or
ptaaarmigan@ptaaarmigan.org.

Very truly yours,

PTAAARMIGAN

Attachments:

Attachment 1. Notice of Potential Erroneous Release of Patent Application Titles

Attachment 2. PTO Form SB469

Attachment 3. PTO's Frequently Asked Questions for Form SB469

Attachment 4. Coding Error Impacting USPTO Patent Term Adjustment Software

Attachment 5. Notice of New or Revised Projected Publication Date

Attachment 6. A few example conversations on IdeaScale

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New York, NY

Andrew H. Berks
Berks IP Law PLLC
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Robert Blaha
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October 3, 2024, ICR 202408-0651-004 (control number 0651-0027), *Recording Assignments*,
30-day notice at 89 Fed. Reg. 71259 (Sep. 3, 2024)

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PTAAARMIGAN, 61 INTELLECTUAL PROPERTY PROFESSIONALS

October 3, 2024, ICR 202408-0651-004 (control number 0651-0027), *Recording Assignments*,
30-day notice at 89 Fed. Reg. 71259 (Sep. 3, 2024)

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Shannon Vieau
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Warren Wolfeld
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Terrence M. Wyles
Startup IP Law, LLC
Durango, CO

Bruce A. Young
Young's Patent Services
Grimes, IA

Attachment 1

Notice of Potential Erroneous Release of Patent Application Titles

Notice of Potential Erroneous Release of Patent Application Titles

On February 5, 2024, the United States Patent and Trademark Office (USPTO), replaced the Electronic Patent Assignment System (EPAS) and Electronic Trademark Assignment System (ETAS) with Assignment Center.

Between February 5, 2024 and March 29, 2024, the USPTO, unintentionally, through a computer programming error, permitted bibliographic information to be viewed by unauthorized individuals with access to registered Assignment Center accounts. This bibliographic information was limited to the application number (the two-digit series code plus the six-digit serial number) and title of the invention.

You are receiving this notification because your application's patent title may have been viewed during that time frame by individual(s) who lacked permission to do so. The software error was first reproduced by USPTO on March 28, 2024, and was corrected on March 29, 2024. Only application numbers and titles were disclosed; it is important to note that your specification and claims were not part of the information made available and were not accessed.

Any improper access of the application information between the dates of February 5, 2024 and March 29, 2024, is not considered a publication of such applications under 35 U.S.C. 122(b). No rights in United States patents are threatened by the access to unpublished applications. It is extremely unlikely that the title could disclose the invention in a way that would constitute patent-defeating prior art in any jurisdiction. To the extent any issue is raised, the USPTO will assist applicants by confirming that the disclosure was erroneous and inadvertent.

We're committed to data security and are taking enhanced steps to prevent incidents such as this from happening in the future. The USPTO sincerely regrets this error and is instituting more testing controls, both manual and automated testing, to prevent similar processing errors in the future.

Inquiries regarding this matter may be directed to Mark Polutta, Senior Legal Advisor, at (571) 272-7709 or Andrew Stclair, Legal Advisor, at (571) 270-0238, both of the Office of Patent Legal Administration or via email addressed to Patent.Practice@uspto.gov.



Henry "Jamie" Holcombe
Chief Information Officer
US Patent and Trademark Office
Office +1 (571) 272-9400



Dated: April 27th, 2024

Attachment 2

PTO Form SB469

Doc Code: P.AS.V

Document Description: Patents Assignment Verification request

PTO/SB/469 (08-24)

CERTIFICATION AND REQUEST TO PLACE THE PATENT ASSIGNMENT ABSTRACT OF TITLE INTO THE PATENT APPLICATION FILE		
Practitioner Docket No.:	Application No.:	Filing Date:
First Named Inventor:	Title:	
<p>APPLICANT HEREBY CERTIFIES THE FOLLOWING AND REQUESTS THAT THE USPTO PLACE THE PATENT ASSIGNMENT ABSTRACT OF TITLE INTO THE ABOVE-IDENTIFIED PATENT APPLICATION FILE.</p> <ol style="list-style-type: none">1. This form is being filed by a practitioner or the applicant for this application.2. This form is being transmitted by electronic mail to RecordedAssignmentPlacement@uspto.gov.3. This patent application is <u>not</u> open to the public.4. Recognizing that Internet communications are not secure, I hereby authorize the USPTO to communicate with the undersigned and practitioners in accordance with 37 CFR 1.33 and 37 CFR 1.34 concerning any subject matter of this application by video conferencing, instant messaging, or electronic mail. I understand that a copy of these communications will be made of record in the application file.5. The undersigned requests that the Patent Assignment Abstract of Title for this application be placed into the patent application file.		
Signature	Date	Practitioner Registration No.
Name (Print/Typed)	Telephone Number	
<p><i>Note: This form must be signed in accordance with 37 CFR 1.33. See 37 CFR 1.4(d) for signature requirements and certifications. Submit multiple forms if more than one signature is required, see below*.</i></p>		
<input type="checkbox"/> * Total of _____ forms are submitted.		

Attachment 3

PTO's Frequently Asked Questions for Form SB469

FAQs on Form SB469

Q: The assignments functionality within Patent Center is currently disabled. How can assignment record(s) for a patent application be accessed?

A: The assignments functionality in Patent Center was disabled on August 1, 2024 (see [Notice of potential exposure of protected patent application information through Patent Center](#)). As result, registered users are temporarily unable to view assignment records for their applications that are not open to the public via Patent Center Private View.

Assignment records for patent applications that are open to the public continue to be available to all users via [Patent Assignment Search](#). Information about applications being open to the public can be found in the Manual of Patent Examining Procedure (MPEP) [section 103](#).

Q: How do I request that certain assignment information, such as the Patent Assignment Abstract of Title, be added to my non-public patent application file so I can view it in Patent Center Private View?

A: The USPTO has implemented a temporary procedure whereby a practitioner or the applicant may submit [form SB469](#) to request that the USPTO place the Patent Assignment Abstract of Title into the application file. The Patent Assignment Abstract of Title includes information such as the title of the invention, inventor name(s), assignee(s), assignor(s), recordation date, and reel and frame number(s) where documents related to title are recorded. [Form SB469](#) will be available at [Forms for Patent Applications](#) until electronic access to non-public assignment records is restored.

Q: How must a registered practitioner or the applicant submit [form SB469](#)?

A: [Form SB469](#) must be electronically mailed to: RecordedAssignmentPlacement@uspto.gov. The form must be signed by a practitioner or the applicant. If the applicant is a juristic entity, the form must be signed by a practitioner. If joint inventors are the applicant, the form must be signed by all of the inventors, or by a practitioner.

All papers and information pertaining to a single request should be included in a single email to ensure efficient consideration. For example, if joint inventors are the applicant and are not represented by a practitioner, each joint inventor must sign a [SB469 form](#) for the USPTO to consider a request to place the assignment record(s) into the application file and each signed form should be provided in a single email.

Q: May I submit a [SB469 form](#) in an application that is open to the public?

A: No, [form SB469](#) should not be submitted in an application that has been patented, published under 35 U.S.C. 122(b), or is otherwise open to the public (the form includes a certification that

the identified application is not open to the public). [Patent Assignment Search](#) may be used locate assignment records for patent applications that are open to the public.

Q: I emailed [form SB469](#) to the mailbox. Should I expect a communication from the USPTO in response to submitting the [SB469 form](#)?

A: No, the USPTO will not send a reply from the mailbox. The USPTO will review the submitted [SB469 form](#) and place the form in the application file, indexed as P.AS.V, regardless of whether the request is granted. If the request is granted, the USPTO will place the Patent Assignment Abstract of Title into the file, indexed as AS.REC at the same time. If a Patent Assignment Abstract of Title does not appear in the file after the request has been added to the application file, the request may have been denied because it was not properly signed. For more information, the requestor may contact the Office of Patent Legal Administration at 571-272-7704, or via email at Patent.Practice@uspto.gov.

Attachment 4

Coding Error Impacting USPTO Patent Term Adjustment Software

Coding Error Impacting USPTO Patent Term Adjustment Software

Summary

The United States Patent and Trademark Office (USPTO) has discovered that a recent update to USPTO software introduced a coding error into the patent term adjustment software that the USPTO uses to perform patent term adjustment (PTA) determinations. This error impacted certain patents that issued from March 19, 2024, through July 30, 2024, and may have caused an incorrect calculation of the delay under 35 U.S.C. 154(b)(1)(A) (“A” delay) and the amount of overlap under 35 U.S.C. 154(b)(2)(A) (“Overlap”). The other PTA calculations under 35 U.S.C. 154(b) were not impacted by this error. The USPTO has identified the source of this error and corrected the computer program. Patentees seeking a revised PTA determination based on this error must submit a timely request for reconsideration of the PTA indicated in the patent under 37 CFR 1.705(b).

Background

The American Inventors Protection Act of 1999 or AIPA (Pub. L. 106-113, 113 Stat. 1501, 1501A-552 through 1501A-591 (1999)) amended 35 U.S.C. 154(b) to provide for patent term adjustment in the event that the issuance of the patent is delayed due to one or more of the enumerated administrative delays listed in 35 U.S.C. 154(b)(1). Under the patent term adjustment provisions of the AIPA, a patentee generally is entitled to patent term adjustment for the following reasons: (1) if the USPTO fails to take certain actions during the examination and issue process within specified time frames (35 U.S.C. 154(b)(1)(A)) (“A” delay); (2) if the USPTO fails to issue a patent within three years of the actual filing date of the application (35 U.S.C. 154(b)(1)(B)) (“B” delay); and (3) for delays due to interference or derivation proceedings, secrecy orders, or successful appellate review (35 U.S.C. 154(b)(1)(C)) (“C” delay). See 35 U.S.C. 154(b)(1). The AIPA, however, sets forth a number of conditions and limitations on any patent term adjustment accrued under 35 U.S.C. 154(b)(1). Specifically, 35 U.S.C. 154(b)(2)(A) provides, “to the extent that periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.” The USPTO implemented the patent term adjustment provisions of the AIPA in a final rule published in September of 2000. See *Changes to Implement Patent Term Adjustment Under Twenty-Year Patent Term*, 65 Fed. Reg. 56365 (Sept. 18, 2000) (final rule).

The USPTO performs an automated calculation of how much patent term adjustment, if any, is due to a patentee using the information recorded in the USPTO's One Patent Service Gateway (OPSG) system. See 65 Fed. Reg. at 56380-81. The AIA Technical Corrections Act was enacted on January 14, 2013. See Pub. L. 112-274, 126 Stat. 2456 (2013). Section 1(h) of the AIA Technical Corrections Act revised the patent term adjustment provisions of 35 U.S.C. 154(b). Section 1(h)(2) of the AIA Technical Corrections Act amended 35 U.S.C. 154(b)(3)(B)(i) to change “shall transmit a notice of that [patent term adjustment] determination with the written notice of allowance of the application under section 151” to “shall transmit a notice of that [patent term adjustment] determination no later than the date of issuance.”

Coding Error Impacting USPTO Patent Term Adjustment Software

The USPTO has discovered that a recent update to USPTO software introduced a coding error into the patent term adjustment software. The error impacted certain patents that issued from March 19, 2024, through July 30, 2024, and may have caused an incorrect calculation of the delay under 35 U.S.C. 154(b)(1)(A) (“A” delay) and the amount of overlap under 35 U.S.C. 154(b)(2)(A) (“Overlap”). The other PTA calculations under 35 U.S.C. 154(b) were not impacted by this error. In many of the patents, the overall amount of PTA remains correct because the inaccurate amount of “A” delay equaled the inaccurate amount of “Overlap.” However, in some instances, the inaccurate amount of “Overlap” did not equal the amount of inaccuracy in the “A” delay, potentially leading to patentee receiving an inaccurate amount of overall PTA.

The USPTO has estimated that approximately 1% of patents issued from March 19, 2024, through July 30, 2024, may have been impacted by the coding error. Impacted patentees may file a request for reconsideration of the PTA determination as set forth in 37 CFR 1.705(b). The request for reconsideration must be filed no later than two months from the date the patent was granted. The two-month period may be extended under the provisions of 37 CFR 1.136(a). Where the sole reason for contesting the PTA determination in this patent is a calculation error in the amount of “A” delay and “Overlap”, the USPTO will waive the fee to file the request for reconsideration under 37 CFR 1.705(b)(1) as set forth in 37 CFR 1.18(e) as well as any extension of time fees under 37 CFR 1.136(a). See 37 CFR 1.183. **Accordingly, any request for reconsideration where the sole reason for contesting the PTA determination in this patent is a calculation error in the amount of “A” delay and “Overlap” can be filed without a fee within seven months of the date the patent was granted.** The USPTO will not consider any untimely filed request for reconsideration of the patent term adjustment nor will the USPTO grant any petition under 37 CFR 1.182 or 1.183 to extend such deadline. Patentee should mention this notice when seeking waiver of the fees and may consider authorizing fees to be charged to a deposit account if the waiver is not applicable.

If the request for reconsideration is not based solely on the USPTO's computer error related to the calculation of “A” delay and “Overlap,” the patentee must file a request for reconsideration of the patent term adjustment indicated on the patent under 37 CFR 1.705(b) with the fee set forth in 37 CFR 1.18(e) and any extension of time fees necessary.

In addition, it is noted that the fee specified in 37 CFR 1.18(e) is required for a request for reconsideration under 37 CFR 1.705(b), and the USPTO may only refund fees paid by mistake or in excess of that required (35 U.S.C. 42(d)). Thus, the waiver set forth in this document is not a basis for requesting a refund of the fee paid in accordance with 37 CFR 1.18(e) for any request for reconsideration under 37 CFR 1.705 or the extension fees under 37 CFR 1.136, including any previously filed request that was solely based on the USPTO's error in not properly calculating the “A” delay and “Overlap.”

The Office of Petitions will manually review the request for reconsideration of the patent term adjustment filed under 37 CFR 1.705(b). Specifically, the Office of Petitions will review the accuracy of the patent term adjustment calculation in view of regulations 37 CFR 1.702 through

1.704 as part of the recalculation. The results of the review will proceed as outlined in MPEP § 2734.

This notice is intended to provide notification of the recent coding error that impacted patent term adjustment software and the relief available, and is NOT a notice of the Director's determination of the period of patent term adjustment under 35 U.S.C. 154(b)(3)(B) for any patent, including any patents impacted by the coding error.

Contact information

Any inquiries concerning this notice may be directed to Kery A. Fries, Senior Legal Advisor, Office of Patent Legal Administration, Office of Deputy Commissioner for Patents, by telephone at (571) 272-7757, or Fenn Mathew, Acting Director, Office of Petitions, by telephone at (571) 272-4978, or by mail addressed to: Mail Stop Comments-Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: 9/25/2024



Katherine K. Vidal
Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office

Attachment 5

Notice of New or Revised Projected Publication Date



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
63/68	08/21/2024		.004PV1

CONFIRMATION NO. 3887

NEW OR REVISED PPD NOTICE



0000000078523213

Date Mailed: 09/27/2024

NOTICE OF NEW OR REVISED PROJECTED PUBLICATION DATE

The above-identified application has a new or revised projected publication date. The current projected publication date for this application is 02/26/2026. If this is a new projected publication date (there was no previous projected publication date), the application has been cleared by Licensing & Review or a secrecy order has been rescinded and the application is now in the publication queue.

If this is a revised projected publication date (one that is different from a previously communicated projected publication date), the publication date has been revised due to processing delays in the USPTO or the abandonment and subsequent revival of an application. The application is anticipated to be published on a date that is more than six weeks different from the originally-projected publication date.

More detailed publication information is available through the private side of Patent Application Information Retrieval (PAIR) System. The direct link to access PAIR is currently <http://pair.uspto.gov>. Further assistance in electronically accessing the publication, or about PAIR, is available by calling the Patent Electronic Business Center at 1-866-217-9197.

Questions relating to this Notice should be directed to the Office of Data Management, Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

Attachment 6

A few example conversations on IdeaScale

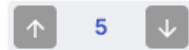
Patent Center

Status of Assignment issue?! 🔥



April Reasoner

09/06/2024 11:46 AM · Idea #253 · Views 6



↑ 5 upvotes

↓ 0 downvotes

When is the assignment link in the application record going to be fixed? The patent assignment search page is not always correct. Quite often I get 0 results, but the assignment has been recorded. Please fix both!

Patent Center

USPTO Sending Correspondence Notifications 3x a Day 🔥



garramone

09/11/2024 07:39 AM • Idea #255 • Views 8

Recently, the PTO has started sending the daily correspondence notifications in three separate e-mails with Office Actions being sent after 9pm. This is very disruptive to my being able to do my job, which is docketing correspondence. We have client guidelines to adhere to when providing the client with their correspondence in what they deem a timely matter. There is no reason to be sending the e-mail notifications at three separate times during the day. I don't need the PTO to make my job harder than it already is. This is a most unwelcomed display of the PTO malfunctioning beyond any rhyme or reason. What is the point of this new system?

📌 Pinned by **eMod Moderator**

eMod Moderator 09/13/2024 06:34 AM

Moderator

Thank you for your question. The current e-Office Action notification schedule will temporarily run 3 times daily beginning 09/05/2024. An update will follow once the original e-Office Action schedule returns.

👍 0 🗨️ 0

Hide replies ▾



Andrea Jacobson 09/18/2024 08:10 AM

Currently the system appears to be running at 5am, 2pm, and 9pm ET. The final run is well after the close of business - even for people in the Pacific time zone. Items issued in that run still have that mailing date - even though they won't be received or viewed until the following business day. That is removing a day from our ability to respond to the communication; in some instances, it is a communication that would need to be responded to that day. There has been no explanation offered for Why this is happening suddenly, or how it is determined what items are sent in which runs. This is extremely frustrating.

garramone 09/13/2024 08:13 AM

Idea Submitter

Just how are we defining "temporarily"? Weeks? Months? Years?

eMod Moderator 09/13/2024 06:34 AM

Moderator

Thank you for your question. The current e-Office Action notification schedule will temporarily run 3 times daily beginning 09/05/2024. An update will follow once the original e-Office Action schedule returns.

IdeaScale is not intended to collect bug reports. It's designed to discourage them.



David Boundy

02/20/2023 01:26 PM • Idea #111 • Views 14

I see that there's only been one comment on "Leveraging Text (DOCX)" in the last fifteen months. <https://uspto-emod.ideascale.gov.com/c/campaigns/756/stage/all/ideas/recent> This is not because DOCX is not buggy, It's because IdeaScale is designed to discourage comments. I infer that IdeaScale is a Potemkin, something to show higher-ups that "We have a comment system, and no one is complaining, so our software must be really good." I conjecture that someone (probably someone with "quality" in his/her title) has compensation metrics that are driven by low reporting of problems on IdeaScale, and that the following "Security Policies" were set by that person. Someone's a crook.

I had been locked out of IdeaScale for 18 months. Today I found a back door. I looked at the "Security Policies" and they're ridiculously out of synch with the sensitivity of the data.

- IdeaScale is set to expire passwords in **60 days**. There is no reason on God's green earth that IdeaScale passwords should **ever** expire. NIST withdrew their recommendation for password expiration YEARS ago, and now recommends that passwords should NOT expire.
- Given the low sensitivity of the data in IdeaScale, there is no reason that passwords shouldn't be reused. If I make three faulty guesses, and do "password reset," I should be able to request a reset and put back my password where I wanted it all along.
- The session timeout is fifteen minutes. That's absurd.
- "Remember me" is disabled
- Turning off two factor authentication is disabled.
- IdeaScale has exceptionally stringent password construction rules -- NIST suggests <https://pages.nist.gov/800-63-3/sp800-63b.html> passwords of at least 8 characters, IdeaScale requires 12. NIST recommends "No other complexity requirements for memorized secrets SHOULD be imposed. ... Verifiers SHOULD NOT impose other composition rules (e.g., requiring mixtures of different character types or prohibiting consecutively repeated characters) for memorized secrets. Verifiers SHOULD NOT require memorized secrets to be changed arbitrarily (e.g., periodically)." The PTO sets much more stringent criteria anyway. NIST specifies very limited circumstances in which a password should be unacceptable; teh PTO rules out passwords on far broader criteria.

Here's how these pernicious policies interact. When a person can't log in, IdeaScale locks out the person after three guesses. If you request a "password reset" through a set of settings, the reset changes your password, To log in, you have to set a new password. But you **can't** set a new password because the "password reset" burned your once-per-24-hour opportunity. Effectively, the password expiration locks you out for 24 hours. Unless you give up (as I gave up 18 months ago) -- then these "Security Policies" accomplish their true goal. locking out a bug report in perpetuity.

Unless you find a back door.

No one is storing nuclear secrets in IdeaScale. Bugs don't arise every day; if things are working the way they're supposed to, one might only log in to IdeaScale less than once every few months, long after the password expired at 60 days. The objective fact is that the PTO had set the barriers around IdeaScale that are entirely out of proportion to the sensitivity of the data inside IdeaScale. The objective fact is that the PTO gives dismissive answers to most comments on IdeaScale, The objective fact is that the PTO imposes password rules that are specifically discouraged by NIST.

From those facts, I infer that the high barrier is entirely intentional. I infer that discouraging comments is a major purpose for setting the password rules as the PTO did. I infer that the PTO had zero intention of actually collecting comments, let alone acting on them. I infer that the cost-benefit of spending time developing a useful trouble report for IdeaScale did not warrant spending time on it. So I haven't. Until today, when I found a back door.

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E

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eMod Moderator  02/24/2023 07:01 AM (Last edited by **eMod Moderator** 02/24/2023 07:02 AM)

Moderator

Please report any errors found while filing your application to the Electronic Business Center. Due to security updates you may have experienced issues with your password. We apologize for any inconvenience this as caused.

👍 0 🗨️ 0

D

dratoff (@dratoff1)  03/29/2023 09:18 AM



This is part of the cultural phenomenon of security inflation. Every website seems to think we need high security. What needs high security is: money, work, recovery accounts (email, phone, network, apple, etc.). Everything else should be optional high security.

👍 0 🗨️ 0

C

Christian Scholz (@cscholz)  03/28/2023 10:56 AM



OH MY GOD YES. The level of security that is employed on IdeaScale is beyond ridiculous. It is more stringent than what is required to log into Patent Center, for God's sake. And as David notes, IT'S JUST FOR REPORTING BUGS/FEATURE IDEAS.

I fully agree with David's sentiment--it's like the system is set up to discourage people from reporting bugs. It should instead make it *as easy as possible* for people to report bugs.

I will add to David's comment that it seems like the USPTO is rarely reviewing or responding to the feedback provided by users. For the most part, it seems like users are trying to provide valuable bug-reporting information that identifies actual (and often serious) issues in Patent Center. And then nothing happens.