

This was intended to be the cover message over my submission 20 minutes ago, However, regulations.gov gives an error message, so I am submitting it as a PDF.

Attached are several letters and a meeting handout presented by me, David Boundy on behalf of PTAAARMIGAN, Brad Forrest on behalf of AIPLA, and Richard Baker on behalf of NAPP in May 2024. In it we point out a number of technological flaws in DOCX filing, show that PDF/A is a standard that guarantees the properties that the USPTO and public need for patent application filing, and point out a number of procedural lapses—including outright falsehoods—in the PTO's rulemaking and submissions to OMB.

- We provide a number of examples of DOCX filings gone wrong. In its 2023 Supporting Statement, the USPTO claims "The USPTO is simply not seeing the unreliability asserted by the commenter." This claim is remarkable for the audacity of its falsehood. In the attachment, we give several examples of errors reported to the USPTO. In several the USPTO acknowledged it had made an error. In one it was forced to pay an \$8000 refund to correct its own error. The USPTO's claim of "simply not seeing" is either an intentional lie or willful blindness. If the USPTO has a system for finding and tracking errors, please explain it—but if the USPTO is not actively gathering information, it is unhelpful for the USPTO to discount the experiences of applicants and instead rely on opinion based on personal ignorance. Perhaps the USPTO intentionally Chinese Walls Mr. Isaac and Mr. Tamayo from the rest of the Office so they can make statements of non-knowledge. Nonetheless, the USPTO is fully aware of "unreliability." Mr. Isaac's and Mr. Tamayo's representations were false at the time.

-- We provided several statements that the USPTO had made to the public and OMB that are either outright false, or only truthful in the most hyper-literal sense, while being framed to communicate a statement that is 180° opposite. The later phases of an ICR are ex parte; the USPTO's lawyers operate under the obligations of candor of Professional Responsibility Rule 3.3.

- In the 2019 NPRM and 2020 final rule, the USPTO claimed "The collection of information involved in this Final Rule have been reviewed and previously approved by the OMB." That was a lie. At the time, no filing had even been made. The first filing didn't come until September 2023. This claim of "previously approved" appears to be part of the boilerplate in all USPTO rulemaking notices, regardless of truth. It's a pattern of false representation.

- Similarly, the USPTO claimed to be exempt from Executive Order 12866 because the fee-setting rule is a "transfer payment." Perhaps the USPTO's user fees are transfer payments, but the DOCX surcharge is not. This is one example of a pattern of false claims of exemption from rulemaking that pervades the USPTO's rulemaking.

Please accept the attachment as a comment on this ICR, and respond to it comment by comment.

Please do not recharacterize comments--respond to them fairly. Please do not respond with *non sequiturs* that evade the comment. Please familiarize yourself with terms of art such as “interoperability standard” and “open source,” so that your responses do not demonstrate the buffoonery of not knowing the meanings of technological terms. Please do not demonstrate willful avoidance of learning what words mean and their relevance. Under 44 U.S.C. § 3506(c)(3) and 5 C.F.R. § 1320.9, the Office is required to “provide a record supporting” each of its claims—please cite evidence for the USPTO’s positions, and please do not stand on personal opinions. Please do not contradict statements in the three relevant standard (ISO/IEC 29500 (the DOCX standard), ISO 19005-4 (the PDF/A-4 standard), and ISO/IEC 3200 (the base PDF standard)) without explaining in detail why the USPTO believes that the documents do not mean what they say. Please do not attribute to standards documents promises that they do not state—for example, ISO/IEC 29500 makes no claim whatsoever that DOCX provides a reproducible, uniform, consistent “reliable source of structured text” (in fact, by reserving “implementation defined” behaviors, it promises the opposite) -- if the USPTO believes otherwise, please identify and cite specific statements in the standard document.

Citations to evidence are essential to honesty and accuracy. The DOCX standard, ISO/IEC 29500, is not at <https://www.iso.org/committee/45374/x/catalogue> The USPTO has given this cite repeatedly, from the NPRM in 2019 to the Supporting Statement in 2023. That URL is wrong. This repetition of uncorrected error strongly suggests that the USPTO acts with contempt for fact and accuracy, and has never bothered to read the standard before making representations about what it guarantees and what it does not. I obtained copies of the ECMA and ISO/IEC DOCX standards; they are available at https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=202309-0651-002 . In my letters, I quote them at length. In its papers, the PTO contradicts the standards over and over, never citing any evidence for its opinions. Please take the steps that honest competent people take to be accurate.